



C.R.P.(MD).Nos.2401 & 2402 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 06.06.2024

DELIVERED ON: 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(MD).Nos.2401 & 2402 of 2018

and

CMP(MD).Nos.10738 & 10739 of 2018

1.K.Muthaiyan

...Petitioner/Appellant
in CRP.No.2401 of 2018

2.R.Sankaran

...Petitioner/Appellant
in CRP.No.2402 of 2018

Vs

1.The Deputy Registrar of Co-operative Societies
Tiruchirappalli Circle
Tiruchirappalli 620 020

2.YT54, Tiruchirappalli Co-operative Printing Works Ltd.,
Represented by its President
Thuvakkudi
Tiruchirappalli 620 015

...Respondents/Respondents
in both revisions

(1st Respondent ex-parte in Lower Court)

COMMON PRAYER: The Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set aside the order passed in



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CMA(CS).Nos.7 and 8 of 2017 on the file of the Principal District Judge, Tiruchirappalli dated 27.06.2018 and allow the present civil revision petition.

For Petitioners : Mr.V.O.S.Kalaiselvam
in both petitions

For Respondents : Mr.C.Satheesh
Government Advocate
in both the petitions

COMMON ORDER

The present civil revision petitions have been filed by the in-charge Manager and the Special Officer of the second respondent Co-operative Printing Works Limited challenging the order passed by the Principal District Judge, Tiruchirappalli in CMA.Nos. 7 and 8 of 2017 confirming the order passed by the Deputy Registrar of Co-operative Societies under Section 87 of Tamil Nadu Co-operative Societies Act, 1983.

(A)Facts leading to the filing of the present revision petitions are as follows:

2.According to the appellants, as per instruction of the Joint Registrar of Co-operative Societies and the Deputy Registrar of



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Co-operative Societies, they have purchased 2100 admission registers from Thanjavur Co-operative Press and Tiruchirappalli Co-operative Printing Works for the purposes of Co-operative Societies Election to be held in the year 2013. They had incurred expenses to an extent of Rs.1,60,000/- towards raw material and Rs.2,55,000/- towards binding. Out of the said raw material, they have manufactured minutes book, membership admission registers and jewel loan registers.

3. Alleging irregularities in the said process, the Deputy Registrar of Co-operative Societies, Tiruchirappalli had initiated proceedings under Section 81 of the Co-operative Societies Act, 1983 on 28.10.2015. The enquiry officer had concluded that both the appellants and two others were responsible for the loss of income to an extent of Rs.8,17,300/- in printing the member admission registers. Based upon the said report, proceedings under Section 87 were initiated against the appellants and orders were passed on 24.01.2017. Challenging the said orders, two independent appeals were filed by the Manager in-charge and the Special Officer in-charge of the concerned Co-operative Society in CMA (CS).Nos. 7 and 8 of 2017 before the Principal District Court, Tiruchirappalli.



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4. After considering various submissions made on the side of the appellants, the Co-operative Tribunal ultimately arrived at a finding that without obtaining any prior permission from the higher authorities, the appellants had purchased the admission registers. Though request of the appellants for furnishing of documents was acceded to, the delinquents have not utilised the said opportunity. The Tribunal had further found that the appellants had not utilized the opportunities to cross examine the witnesses on the side of the management.

5. The Tribunal had further found that the registers were purchased in excess and they could not be used which had resulted in loss of income to the society. Ultimately, the Tribunal had proceeded to confirm the order passed under Section 87 of the Tamil Nadu Co-operative Societies Act. Challenging these two orders, the present revision petitions have been filed by the said appellants.

(B)Contentions of the counsels appearing on either side are as follows:

6. A review meeting was conducted by the concerned Minister in the office of the Joint Registrar of Co-operative Societies in the presence of higher officials and in the said meeting, they were directed to print the



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member entrance registers. However, the membership register could not be sold due to unforeseen circumstances. Any loss in the business activities of the society could not be considered to be dereliction of duty or wilful negligence on the part of the employees of the societies.

7.He had further contended that they have given several representations to issue a copy of the minutes of the review meeting. However, the said requests were not responded or acceded to which would prove that they had proceeded to print the membership register only under the direction of the higher authorities.

8.The basic report namely enquiry report under Section 87 of the Act was not served and therefore, the entire proceedings are vitiated and liable to be set aside.

9.The authorities had not followed the principles of natural justice by not serving the copies of the documents requested by the petitioners and not permitting the petitioners to cross examine the witnesses on the side of the management. Hence, he prayed for allowing the revision petitions.

10.Per contra, the learned Government Advocate appearing for the official respondents had contended that though the revision petitioners



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were permitted to peruse the documents relating to the alleged direction issued by the higher officials, they have not chosen to do the same. He had further contended that though several opportunities were granted to the revision petitioners, they have not cross examined the witnesses. In such circumstances, the entire burden is upon the revision petitioners to prove that they had proceeded to print the membership registers only after obtaining prior approval from the higher authorities and they have not discharged the said burden. The production of large number of membership registers had resulted in huge loss of Rs.8,17,300/- due to wilful negligence on the part of both the revision petitioners. Therefore, the Original Authority as well as the Appellate Authority were right in mulcting the liability upon the revision petitioners. Hence, he prayed for dismissal of the revision petitions.

11.I have considered the submissions made on either side and perused the material records.

(C) Discussion:

12.The primary contention of the learned counsel for the petitioners is that a review meeting was conducted in the presence of the concerned Minister and the higher officials wherein instructions were



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issued to the revision petitioners to proceed with the printing of membership registers in view of impending Co-operative Societies election.

13. According to the revision petitioners, though several attempts were made by them, requesting a copy of the minutes of the review meeting, they have not been furnished with the same. The Co-operative Tribunal after perusing the original records had arrived at a finding that the second respondent has given permission to the revision petitioners for perusal of the documents in the society after giving proper instructions to the Society to furnish the documents which are mentioned in the application. Though the revision petitioners were permitted to get a copy of the same, they have not chosen to proceed further. The enquiry officer has also directed the revision petitioners to approach the Director of Co-operative Society to get the copies. However, the revision petitioners have not approached the concerned officer. This finding recorded by the Co-operative Tribunal has not been put to challenge by the revision petitioners. Therefore, it is clear that the request of the revision petitioners for furnishing certain documents was acceded to by the concerned authorities, but they have not utilized the same for the reasons best known



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to them. Hence, the contentions of the learned counsel for the revision petitioners that non-furnishing of vital documents would vitiate the enquiry as well as the surcharge proceedings, is not legally sustainable.

14.A perusal of the enquiry report further reveals that though several opportunities were granted to the revision petitioners for cross examining one Amirthalingam who was examined on the side of the management, the said opportunity was not utilized by the revision petitioners herein. Therefore, it is clear that there is no violation of principles of natural justice in conducting the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act.

15.The petitioners had further contended that any loss incurred during the business activities of the Co-operative Societies could never be considered to be a wilful negligence on the side of the employees of the Society. A careful perusal of the enquiry report would clearly indicate that the revision petitioners herein have proceeded to print the membership registers in large numbers without any prior approval from the higher authorities. If they have printed the membership registers after proper approval from the higher authorities and the said registers could not be sold, then only it could be considered to be a business loss on the part of



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the Society. Hence, in the above said circumstances, the loss incurred by the Society could never be termed as a business loss, but only a financial loss incurred by the society due to the wilful negligence on the part of the revision petitioners. Therefore, such a contention is also liable to be rejected.

16.In view of the above said deliberations, there are no merits in the revision petitions. Both the Civil Revision Petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2024

Index : Yes/No
Internet : Yes/No
NCC : Yes/No
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To

1. The Principal District Judge, Tiruchirappalli
2. The Deputy Registrar of Co-operative Societies
Tiruchirappalli Circle
Tiruchirappalli 620 020
3. The President
YT54, Tiruchirappalli Co-operative Printing Works Ltd.,
Thuvakkudi
Tiruchirappalli 620 015
4. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

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Pre-delivery order made in
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