



C.R.P.(MD).Nos.2375 to 2379 & 2381 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON: 23.07.2024

DELIVERED ON: 04.09.2024

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

**C.R.P.(MD).Nos.2375, 2376, 2377, 2378, 2379 and 2381 of 2019
and CMP(MD).Nos.12530, 12532, 12533,
12534, 12537 and 12540 of 2019**

CRP(MD).No.2375 of 2019

R.S.Sornam

....Petitioner/Appellant
/ 3rd Respondent

Vs

1.The Deputy Registrar of Co-operative Societies
Thoothukudi District

....1st Respondent/1st Respondent
/Petitioner

2.K.Manthiramoorthy

3.A.Sekar

...Respondents 2 & 3/Respondents 2 & 3
/Respondents 1 & 2

PRAYER im CRP(MD).No.2375 of 2019: The Civil Revision Petition has been filed under Article 227 of Constitution of India, to set aside the order passed in C.M.A(CS).No.34 of 2012 dated 03.04.2019 on the file of the Principal District Judge, Thoothukudi by confirming the surcharge order Tha.Va.No.2/2012 Sa.Pa(2) (Na.ga.4467/2011 Sa.Pa) dated

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10.06.2012 on the file of the Deputy Registrar of Co-operative Societies,
Thoothukudi.

In CRP(MD).No.2375 of 2019

For Petitioner : Mr.S.Muthumalai Raja
For Respondents : Mr.J.Ashok
Additional Government Pleader for R1
: No appearance for R2 & R3

COMMON ORDER

All these revision petitions have been filed by the members of the Sekkarakudi Primary Agricultural Co-operative Credit Society who received benefits under the special package of relief assistance for the damage caused to the agricultural crops in their lands.

2.The proceedings under Section 81 of the Tamil Nadu Co-operative Societies Act were initiated as against them for forging the documents for receiving the above said benefits and after being found responsible, proceedings were initiated under Section 87 of the Tamil Nadu Co-operative Societies Act. In the surcharge proceedings, the revision petitioners were found liable for the loss incurred to the society. Challenging the same, the petitioners have filed CMA(CS).Nos.34, 27, 24, 25, 30 of 2012 and CMA(CS).No.1 of 2013 before the Principal District



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Judge/Co-operative Tribunal, Tuticorin. The Co-operative Tribunal was pleased to dismiss those appeals. Challenging the same, these revision petitions have been filed.

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

3.The members of the Society namely R.S.Sornam, C.Arumugam, P.Shanmugavel, M.Chinnamuthu, E.Jeyakumar and P.Sankaran with malafide intention of getting crops damage relief fund, had colluded with one Ashokan who was the erstwhile Village Administrative Officer of the Keezhavallanadu and created forged permission chits for getting crop damage funds. It was further alleged that these members of the society have colluded with the Secretary of the Society namely Mathirammoorthy and fraudulently obtained various sum as crop relief fund by forging of documents and falsification of accounts, causing loss to the society to a tune of Rs.9,24,340/-. Having not succeeded before in the surcharge proceedings and before the Co-operative Tribunal, the present revision petitions have been filed.

(B)Contentions of the counsels:

4.According to the learned counsel appearing for the revision petitioners, the Deputy Registrar has not properly appreciated the oral and



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documentary evidence while conducting the surcharge proceedings under Section 87 of the Co-operative Societies Act. The enquiry report under Section 81 of the said Act was not at all furnished and therefore, there is violation of principles of natural justice. It is further contended that the title deeds to prove the ownership of the land and patta relating to the possession of the lands were placed before the Special Officer of the Co-operative Bank and only after being satisfied, the amount was sanctioned.

5.It is further contended that having joint patta along with the family members, cannot be considered to be a violation and a fake document. Even holding the joint patta would prove the legal possession of the petitioner over the lands. They have further contended that only 50% of the relief fund was disbursed to them and the balance 50% has not been disbursed due to the initiation of Section 81 proceedings. Therefore, the surcharge proceedings initiated for recovery of the entire sanction amount which was confirmed by the Co-operative Tribunal are liable to be set aside.

6.The learned counsel appearing for the revision petitioner (Shanmugavel) in CRP(MD).No.2377 of 2019, had submitted that his



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client had approached the Consumer Forum for not disbursing balance 50% of the relief fund by filing Consumer Complaint No.109 of 2011 before the District Consumer Disputes Redressal Forum, Tuticorin. The said consumer complaint was allowed on 14.12.2012 directing them to disburse the balance amount. The Secretary as well as the Special Officer of the Co-operative Society have filed an appeal before the State Consumer Disputes Redressal Commission and the same was dismissed. In the said consumer complaint, the enquiry officer under Section 81 of the Act as well as the Deputy Registrar of Co-operative Society were parties. It is further contended that the order of the Consumer Forum has been complied with by the Society and in such circumstances, the surcharge proceedings are liable to be set aside insofar the petitioner namely Shanmugavel is concerned.

7.Per contra, the learned Additional Government Pleader appearing for the respondent herein had contended that the petitioners are not eligible to receive the crop relief fund. They have created forged patta with the help of the Former Village Administrative Officer and produced it before the Revenue Officials so as to get the relief fund from the Government. Criminal proceedings were also initiated as against these



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petitioners and the Secretary of the Co-operative Society. In such circumstances, the revision petitioners cannot plead innocence that they were not in any way responsible for the loss caused to the Society. He had further contended that merely because they were acquitted from the criminal proceedings, the surcharge proceedings cannot be set aside. Hence, he prayed for sustaining the order passed in the surcharge proceedings and confirmed by the Co-operative Tribunal.

(C)Discussion

8.As far as the case of one of the Society members namely Shanmugavel who is the petitioner in CRP(MD).No.2377 of 2019 is concerned, out of the entire relief fund, only 50% was disbursed by the Co-operative Society. For non payment of the balance 50%, he had approached the District Consumer Disputes Redressal Forum and he was successful. The appeal filed by the Special Officer of the Society has also been rejected by the State Consumer Forum. It is not in dispute that the balance has been disbursed to the said Shanmugavel as per directions of the Consumer Court. In such circumstances, this Court is of the considered opinion that the surcharge proceedings initiated as against the said Shanmugavel are liable to be set aside and accordingly, CRP(MD).No.



2377 of 2019 stands allowed.

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9.As far as the other five members of the societies are concerned, serious allegations have been made to the effect that they have created forged documents with regard to the title and possession of the agricultural properties with the help of former Village Administrative Officer for the purpose of receiving crop relief fund. Though the Revenue Officials who were involved in the scrutiny of those documents have not been proceeded with by their respective department, the petitioners cannot take advantage of the same.

10.It is the specific allegation in the 81 enquiry as well as in the 87 proceedings that forged chits have been prepared by the members of the Co-operative Society. As far as the other five beneficiaries are concerned, they have obtained a recommendation from one A.Sekar who was not the Village Assistant Officer of Theivacheyalpuram at the relevant point of time. The petitioners in these revision petitioners were not able to establish that they have obtained recommendatory certificates from the proper Village Administrative Officer. Therefore, it is clear that the allegation made against them stands proved and the Co-operative Tribunal was right in confirming the order passed by the Deputy Registrar.



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11.It is the contention of the revision petitioners that though they have received 50% relief fund, the surcharge orders have been passed as if 100% of the amount has been released. At the time of effecting recovery, it is for the authorities to recover only the amount that was already disbursed to the revision petitioners.

12.In view of the above said deliberations, this Court passes the following orders:

(i)CRP(MD).No.2377 of 2019 stands allowed.

(ii)CRP(MD).Nos. 2375, 2376, 2378, 2379 and 2381 of 2019 stand dismissed with the observation made in Paragraph No.11 of this order. No costs. Consequently, connected miscellaneous petitions are closed.

04.09.2024

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

- 1.The Principal District Judge, Thoothukudi
- 2.The Deputy Registrar of Co-operative Societies
Thoothukudi District
- 3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

msa

Pre-delivery common order made in

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