



Rev Apl C(MD)No.4 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 03.09.2024

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

**Rev Apl C(MD)No.4 of 2023
in
C.R.P(MD)No.1355 of 2022**

V.Gandhi

...Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Deputy Registrar of Cooperative Society Office,
Tenkasi, Tirunelveli District.

2.O.1896 Kadayanallur,
Ayyapuram Primary Agricultural Cooperative Credit Society,
No.18CE/85, Santhaipet Street,
Kadayanallur Post,
Tirunelveli District through its Vice President.

3.Mohideen Pitchai

4.Chellappa

...Respondents

PRAYER: Review Application is filed under Section 114 and Order 47
Rule 1 of C.P.C. to review the order passed in C.R.P(MD)No.1355 of



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2022, dated 11.11.2022.

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For Petitioner : Mr.V.O.S.Kalaiselvam
For R1 : Mr.B.Baskaran
Additional Government Pleader
For R2 : Mr.M.Sridharan
For R4 : Mr.V.Jeyamohan
For R3 : No Appearance

ORDER

This review application has been filed as against the order passed by this Court in C.R.P(MD)No.1355 of 2022, dated 11.11.2022 on the ground that there is no willful negligence on the part of the review petitioner and the enquiry report for the enquiry conducted under Section 81 of the Cooperative Societies Act, based on which the surcharge proceedings was initiated, was not served on the review petitioner.

2.The learned Counsel appearing for the review petitioner has relied on the judgment rendered by the Principal Seat of this Court in the case of ***S.Ramadevi Vs.The Special officer, Ambur Co-operative Sugar Mills,***



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Vadapudupet, Vellore District & Others reported in ***2016 4 LW 452*** and on the order passed by the Principal Seat of this Court in the case of ***S.Pitchumani Vs. The Deputy Registrar, Cooperative Societies/Arbitrator, Collector Office Complex, Coimbatore - 641 018 and others*** reported in ***2010 (4) CTC 13*** and submitted that there is no wilful negligence on the part of the petitioner and therefore, the petitioner cannot be held responsible.

3.The learned Counsel for the review petitioner submits that the petitioner is only a clerk and he is in no way connected with the auction of the jewels. Even if has failed to inform the higher officials about the activities of the Secretary of the Society, it cannot be treated as wilful negligence on the part of fixing certain responsibility for the auction conducted by the Secretary.

4.Before venturing into any discussion on the rival contentions, this Court may point out that the power of Courts in matters of review is very limited. Such power can be exercised only when there is an error apparent on the face of the record and in that event if an order is not reviewed, it



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would amount to miscarriage of justice. For the said proposition, this Court may usefully refer to the Judgment of a Division Bench of this Court, in ***Union of India, Rep. by the Senior Divisional Commercial Manager, Chennai, Vs. The Registrar, Central Administrative Tribunal, Madras Bench***, reported in ***CDJ 2014 MHC 241***, wherein the Division Bench has made a complete survey of several Judgments of the Supreme Court, on this question, and has ultimately, in Paragraph No.10, held as follows:-

"10. In yet another Judgment reported in 2013 (8) SCC 320, [Kamlesh Verma Vs. Mayawati and others], the Hon'ble Apex Court, after examining various Judgments passed earlier has held as follows:

"12. This Court has repeatedly held in various Judgments that the jurisdiction and scope of review is not that of an appeal and it can be entertained only there is an error apparent on the face of record. A mere repetition through different counsel, of old and overruled arguments, a second trip over ineffectually covered grounds or minor mistakes of inconsequential import are obviously insufficient....."

In the above Judgment, the Hon'ble Apex Court has laid down the principles as under:

"19. Review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of



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Order XL VII Rule 1 of CPC. In review jurisdiction, mere disagreement with the view of the Judgment cannot be the ground for invoking the same. As long as the point is already dealt with and answered, the parties are not entitled to challenge the impugned Judgment in the guise that an alternative view is possible under the review jurisdiction.

Summary of the principles:

20. Thus, in view of the above, the following grounds of review are maintainable, as stipulated by the statute:

20.1 When the review will be maintainable:-

(i). Discovery of new and important matter or evidence which, after the exercise of due diligence, was not within knowledge of the petitioner or could not be produced by him;

(ii). Mistake or error apparent on the face of record;

(iii). Any other sufficient reason.

*The words 'any other sufficient reason' has been interpreted in **Chhajju Ram Vs. Neki, AIR 1922 PC 112** and approved by this Court in **Moran Mar Basselios Catholicos Vs. Most Rev.Mar Poulose Athanasius & others [1955] 1 SCR 520**, to mean, "a reason sufficient on grounds at least analogous to those specified in the rule". The same principles have been reiterated in **Union of India Vs. Sandur Manganese & Iron Ores Ltd., ors., JT (2013)***



8 SC 275.

20.2. When the review will not be maintainable:-

(i) A repetition of old and overruled argument is not enough to reopen concluded adjudications.

(ii). Minor mistakes of inconsequential import.

(iii). Review proceedings cannot be equated with the original hearing of the case.

(iv). Review is not maintainable, unless the material error, manifest on the face of the order, undermine its soundness or results in miscarriage of justice.

(v). A review is by no means an appeal in disguise whereby an erroneous decision is re-heard and corrected but lies only for patent error.

(vi). The mere possibility of two views on the subject cannot be a ground for review.

(vii). The error apparent on the face of the record should not be an error which has to be fished out and searched.

(viii). The appreciation of evidence on record is fully within the domain of the appellate Court, it cannot be permitted to be advanced in the review petition.

(ix). Review is not maintainable when the same relief sought at the time of arguing the main matter had been negated.""



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5.The learned Counsel for the second respondent submits that the jewels pledged with the Society have been sold by the Secretary without any notice and without any information to the higher officials for a lesser cost than the amount, for which it has been pledged, thereby a loss of Rs. 7,00,000/- has been caused to the Society. The learned Counsel has also pointed out the earlier orders of this Court passed in C.R.P(MD)Nos.1355 and 1511 of 2022 and submitted that the responsibility of the petitioner/Clerk has also been considered by this Court as per the bylaws and then only this Court has dismissed the said civil revision petitions. Therefore, the petitioner is not having any merits in this petition and apparently there is no error in the orders of this Court.

6.With regard to the second ground taken by the petitioner that the enquiry report for the enquiry conducted under Section 81 of the Tamil Nadu Co-operatives Societies Act based on which, the proceedings under Section 87 of the Tamil Nadu Co-Operative Societies Act was initiated, has not been served.

7.The learned Additional Government Pleader has produced the



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proceedings and submitted that the said enquiry report was made available to the petitioner. The petitioner has also given a statement to that effect and he is very much aware of the enquiry report. Therefore, he cannot take the stand that the enquiry report was not furnished to him and he was prevented from contesting the proceedings initiated under Section 87 of the Tamil Nadu Co-Operative Societies Act.

8.This Court has considered the rival submissions made.

9.The grounds projected by the petitioner are not the grounds for reviewing the earlier order passed by this Court. This Court has considered the role of the petitioner/Clerk in the day-to-day activities of the Society and then only found that as per the bylaws, he is having certain responsibilities and duties towards the Society and the auction of the jewels was conducted with his knowledge and the Secretary of the Society. However, he has failed to inform the same to the higher officials. Therefore, it is a deliberate negligence on the part of the petitioner in colluding with the Secretary of the Society, which cannot be taken that it is not a willful negligence. The ratio relied on by the petitioner in **2016 4**



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LW 452 and **2010 (4) CTC 13** cannot be applicable to the facts and circumstances of this case.

10. Accordingly, this review application is dismissed. No costs.
Consequently, the connected miscellaneous petition is closed.

03.09.2024

Index : yes / No
Internet : yes / No
LR
To

The Deputy Registrar of Cooperative Societies,
Deputy Registrar of Cooperative Society Office,
Tenkasi, Tirunelveli District.



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B.PUGALENDHI, J.

LR

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