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C.R.P.(NPD).No.1768 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P.(NPD).No.1768 of 2024
and C.M.P.No.9326 of 2024

M.Anthony Devaraj

.. Petitioner

Versus

The Deputy Registrar of Cooperative Societies
(Housing),
No.18, Varadanar Street,
Vedachala Nagar,
Chengalpattu.

.. Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the judgment and decree passed in Co-operative Civil Miscellaneous Appeal No.11 of 2009, dated 03.11.2023 on the file of the learned Principal District Judge, Kancheepuram District at Chengalpattu and confirming the suo-motto proceedings No.Thi.Thi.4/2008-09 E dated 18.02.2009 on the file of the Deputy Registrar of Cooperative Societies (Housing), Chengalpattu and allow the Co-operative Civil Miscellaneous Appeal No.11 of 2009 as prayed for.

For Petitioner : Mr.Joseph Prabakar

For Respondent : Mr.B.Tamilnidhi,
Additional Government Pleader



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ORDER

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This Civil Revision Petition is filed challenging the order passed by the learned Principal District Judge, Co-operative Tribunal, Chengalpattu, dated 03.11.2023 made in Co-operative Civil Miscellaneous Appeal No.11 of 2009.

2. When the matter is taken up for hearing, it is brought to the notice of this Court that along with the petitioner, when several other employees were also mulcted with the liability under the same surcharge order and each of them filed the appeal and a common order was passed, the said common order was set aside by this Court in C.R.P.No.3363 of 2024 and remanded the matter back to the Tribunal on the ground that one more opportunity should be given to the petitioner. Therefore, the learned Counsel for the respondent would submit that the same procedure may be resorted to in this case also.

3. Such a course is opposed by the learned Counsel for the petitioner. The learned Counsel for the petitioner would point out to the prayer made in the Civil Revision Petition. That was only with reference to the particular C.M.A.No.8 of 2009 by that employee. As far as the



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present petitioner is concerned, the stand taken by the petitioner is different. The petitioner also raised more serious questions including jurisdiction and limitation. Therefore, as far as the petitioner is concerned, the matter can be considered on merits by this Court itself. As a matter of fact, similar arguments were made even in the previous hearings before the predecessor/learned Judge and the learned Judge did not agree with the learned Counsel for the respondent and directed them to produce the records. If the records are not available, the respondent was directed to file an affidavit in that regard.

4. In reply thereof, the learned Counsel for the respondent would submit that it is true that they did not have any records and they have only the Section 81 Enquiry Report with them.

5. I have considered the rival submissions made on either side and perused the material records of the case.

6. Even though the prayer that is made is in the earlier Civil Revision Petition is only with reference to C.M.A.No.8 of 2009, it is the



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common order that was set aside by this Court in the earlier Civil Revision

Petition. Paragraph No.6 of the said order is extracted hereunder:-

“6. In view of the above stated reasons, the Civil Revision Petition is allowed and the impugned order passed by the learned Principal District Judge, Kancheepuram District at Chengalpattu dated 03.11.2023 in Co-operative CMA.No.08/2009 is set aside and the matter is remitted back to the file of the learned Principal District Judge, Chengalpattu, to pass orders either on merits in the event that all the appellants make their appearance and advance their arguments, or, in the absence of their appearance, to pass an order in compliance with Order 41 Rule 17 of CPC. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.”

7. It is true that the petitioner is raising different grounds and the learned Counsel for the petitioner feels that the petitioner has got even better case rather than seeking for remand. But, that does not guide me to pass a different order than the earlier order passed as against the very same common order. When, in the Civil Revision Petitions filed by the other employees, in respect of the same common order of surcharge, this Court had remanded the matter back to the District Court, I do not see any reason to pass a different order. Even the other questions that are raised by the learned Counsel for the petitioner, including the non-availability of the other records, non-production thereof at the available time, limitation, violation of Section 87, all can be argued by the petitioner before the Tribunal. Courts cannot pass different orders without any compelling cause in respect of the same common order passed by the Tribunal arising



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out of the same surcharge order. It may be true that if one of the employees does not have a role to play, a different finding can be given.

Therefore, it is just and necessary that the grounds raised by all the employees be considered together by the same Tribunal or else it may lead to undesirable results leading in conflicting judgments arising out of the same case.

8. The learned Counsel for the petitioner would also submit that at this distant point of time, remanding the matter would itself amount to prejudice to the petitioner. It is true that the liability is said to be of the year 1999 and we are in the year 2025. But, at the same time, when, in the connected matters, orders have been passed, it may not be fair for this Court to consider this Civil Revision Petition alone on merits, when, in respect of the other employees, the matter was remanded back. In view thereof, except to direct the learned Principal District Judge to take up the matter early and also to consider the special grounds raised by this petitioner also on its own merits, this Court cannot accept the plea made by the learned Counsel for the petitioner.



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9. Accordingly, this Civil Revision Petition is partly allowed on the same terms as C.R.P.No.3363 of 2024. The impugned order passed by the learned Principal District Judge, Kancheepuram at Chengalpattu, dated 03.11.2023 made in Co-operative Civil Miscellaneous Appeal No.11 of 2009 shall stand set aside and the matter is remanded back to the learned Principal District Judge, Co-operative Tribunal to re-consider the entire issue on merits in accordance with law. It would be open for the petitioner to canvass all the points raised in the Civil Revision Petition including the one relating to the non-production of records. The learned Tribunal is also directed to dispose of the matter as expeditiously as possible. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

18.12.2025

Neutral Citation : no
grs

To

The Deputy Registrar of Cooperative Societies
(Housing),
No.18, Varadanar Street,
Vedachala Nagar,
Chengalpattu.



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D.BHARATHA CHAKRAVARTHY, J.

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