



CRP No. 1585 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31-10-2025

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

CRP (NPD) No. 1585 of 2021

and

CMP Nos.12363 of 2021 and 11463 of 2022

G. Elumalai
S/o. Govinda Padayachi,
Vaniyankuppam Village,
Perumbakkam Post,
Ulundurpet Taluk,
Kallakurichi District.

Petitioner(s)

Vs

1. The Special Officer,
Tirunavalur Farmers Service Co-operative,
Credit Society, Tirunavalur.

2.The Deputy Registrar Co Operative Societies,
Tirukoilur.

Respondent(s)

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decretal order in C.M.A.(CS) 17 of 2012 of the Learned Principal District Judge and Special Tribunal for Co operative Cases, Villupuram, dated 28.10.2020 confirming the orders of the Deputy Registrar of Co operative Societies, Tirukoilur, in his proceedings in Na.KA.No.194/2011 Se Pa. Dated 15.06.2012, and thereby allow the revision.



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For Petitioner(s): Mr.N.Suresh

For Respondent(s): Dr. S. Suriya,
Additional Government Pleader
for R1
Mr.C.Sathish,
Government Advocate
for R2

ORDER

Civil Revision Petition is filed against the Fair and Decretal order passed in CMA.(CS)No.17 of 2012, by the learned Principal District Judge and Special Tribunal for Co-operative cases, Villupuram, on 28.10.2020, confirming the orders of the Deputy Registrar of Co-operative Societies, Tirukoilur in the surcharge proceedings dated 15.06.2012.

2. The petitioner was employed as Secretary (Additional charge) of the Thirunavalur Farmers Service Co-operative Society. Whiles, surcharge proceedings were initiated against the petitioner and three other employees for the heavy loss caused to the Society to the Tune of Rs.1,73,75,164/- under various heads. The 2nd respondent initiated surcharge proceedings under Section 87(1) of the Tamil Nadu Co-operative Societies Act. The heads of losses for the total amount of Rs.1,73,75,164/- were itemised into



10 items. The 2nd respondent in the Surcharge proceedings concluded that the petitioner along with 4 others had misappropriated and caused loss to the Society and therefore passed surcharge order for the aforesaid amount along with 17.5% interest. Aggrieved by the surcharge order dated 15.06.2012, the petitioner preferred a CMA before the Principal District and Special Tribunal for Co-operative cases Villupuram, in CMA.(CS).No.17 of 2012. The Appellate Tribunal, by its order dated 28.10.2020, confirmed the surcharge order passed by the 2nd respondent. Aggrieved by the order passed by the Appellate Tribunal, the petitioner has filed the above Civil Revision Petition.

3. Though several grounds were raised in the Civil Revision Petition, the learned counsel for the petitioner submitted that the order of the Appellate Tribunal was ex-facie illegal, in as much as the Tribunal failed to consider that the petitioner, while serving as Secretary-in-charge, filed the FIR and acted as a whistle blower. He submitted that the petitioner filed Interlocutory Application for reception of additional documents in IA.No.43/2019 and IA.No.160/2013, but both the applications were dismissed by the Appellate Tribunal on untenable grounds. It was contended that the Tribunal failed to appreciate that the documents sought to be



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produced were vital to the petitioner's defence to establish that he was not responsible for the loss to the Society. The Tribunal without examining the relevancy of the documents and by merely stating that wrong provisions of law were quoted and that there was a delay in filing, rejected the applications. As an illustration, the learned counsel referred to G.O.Ms.No.590, Home (Police XIX) Department, dated 13.08.2013, which was sought to be marked as additional evidence. The said G.O, disclosed that one Veerasundaram, a Salesman and one Sivakumar had conspired and misappropriated 1790 sovereigns of gold jewels and Rs.3,00,000/- kept in the Society's locker. The Government Order also showed that the properties of Sivakumar were sought to be attached. It was submitted that the Tribunal had earlier observed that it would take judicial notice of the G.O., yet while passing the final order, it failed to consider its relevancy. The petitioner also relied on progress reports of CCIW dated 14.11.2012 and 03.12.2012 filed in WP.No.22455/2012, wherein the investigation revealed the involvement of Sivakumar and Veerasundaram in the misappropriation. These documents, it was argued, were essential to determine the petitioner's liability, yet were ignored.



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4. The learned counsel for the respondents reiterated the submissions made before the Appellate Tribunal.

5. I heard both the learned counsels and perused the materials available on record.

6. The facts are undisputed. Indisputably, the petitioner filed two Interlocutory Applications in I.A.No.43 of 2019 and I.A.No.160 of 2013, seeking reception of additional evidence. The Tribunal rejected them, on the grounds that wrong provision of law was cited, that the documents lacked evidentiary value and that the applications were filed to delay the proceedings. As rightly contended by the counsel for the petitioner, the Appellate Tribunal rejected the applications without considering the relevancy of documents, to the issue.

7. The core issue before the Tribunal was whether the petitioner was liable for the loss caused to the Society. The documents, relied upon by the petitioner particularly, G.O.Ms.No.590, Home [Police XIX] Department,



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dated 13.08.2013, were directly relevant as they indicated that the misappropriation was committed by Sivakumar and Veerasundaram. Even the CCIW progress reports corroborated the same. The Tribunal, however, rejected the documents without any meaningful discussion on their relevancy.

8. It is disquieting that the Tribunal held that the documents had no evidentiary value on the ground that they were "not put to test in cross examination" without appreciating that these documents were already a part of earlier writ proceedings before this Court. The reasoning of the Tribunal for rejecting the applications is therefore unsustainable.

9. In view of the above, this Court is of the view that the order passed by the Tribunal cannot be sustained. Without entering into the merits of the matter, it would be appropriate to remand the matter to the Appellate Tribunal for fresh consideration.



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10. Accordingly, the impugned order in CMA[CS].No.17/2012 is set aside. The matter is remanded to the Appellate Tribunal, which shall receive the additional documents filed by the petitioner, permit the respondents to file their counter and dispose of the matter on merits and in accordance with law within a period of three months, from the date of receipt of a copy of this order.

11. In the result, the **fair and decretal order in CMA(CS).No.17 of 2012, is set aside. The Civil Revision Petition is accordingly allowed.**

No costs. Consequently, the connected miscellaneous petitions are closed.

Dsn / AP

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Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

To

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N.MALA J.
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