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CRP.Nos.3768 & 3770 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.11.2024

**CORAM:
THE HONOURABLE MS.JUSTICE R.N.MANJULA**

CRP.Nos.3768 & 3770 of 2024
and
CMP.Nos.20568 & 20561 of 2024

P.Shanmugavel

...

Petitioner in Both WPs

versus

1. The Deputy Registrar of
Cooperative Societies (Credit),
Kuralagam Complex,
Chennai 600 108.

2.The Managing Director
Chennai Central Cooperative
Bank Ltd., Chennai 600 108.

... Respondents in both WPs.

Prayer in CRP.No.3768 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the judgment and decree dated 30.04.2024 passed in C.M.A.No.23 of 2019 on the file of the learned Chief Judge, Court of Small Causes, Chennai confirming the order passed in Na.Ka.No.2535/2009/SP-1 dated 28.06.2010 on the file of the Deputy Registrar, Cooperative Societies (Credit) Chennai 600 108 namely the 1st respondent and allow the Civil Revision Petition.



CRP.Nos.3768 & 3770 of 2024

Prayer in CRP.No.3770 of 2024: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the judgement and decree dated 30.04.2024 passed in C.M.A.No.24 of 2019 on the file of the learned Chief Judge, Court of Small Causes, Chennai confirming the order passed in Na.Ka.No.8018/2007/SP-1 dated 07.10.2008 on the file of the Deputy Registrar, Cooperative Societies (Credit) Chennai 600 108 namely the 1st respondent and allow the Civil Revision Petition.

In both CRPs.

For Petitioner : Mr.S.Sadasharam

For Respondents : Mr.Murali, GA

COMMON ORDER

These Civil Revision Petitions have been filed challenging the orders of the learned Chief Judge, Court of Small Causes, Chennai, made in C.M.A.Nos. 23 and 24 of 2019 dated 30.04.2024.

2. The above Civil Miscellaneous Appeals have been filed by the very same petitioner challenging the 81 proceedings dated 28.06.2010. The primary point made by the learned counsel for the petitioner is that the petitioner has not been given with a copy of the 81 enquiry report.

3. On perusal of the impugned order, it appears that the Court is aware of the fact that the 81 enquiry report has been made on 28.06.2010. The petitioner



claims that he was not given with a copy of the above proceedings. In the discussion of the order, the Court has made an observation that there is no mandate to furnish a copy of the enquiry report dated 26.11.2007.

4. Apart from the above, the petitioner has also raised a point that the surcharge proceedings have not been completed within the mandatory time limit of six months and that no permission has been obtained from the registrar for extension of time in pursuant to the issuance of the circular of the registrar vide No. 74780 of 2003/SF-2, dated 19.12.2003. While dealing with the above point, the court has observed that by proceedings dated 14.12.2009 in Na.Ka.No.12043/2009-E2, a six-month period is extended till 30.12.2009. Though the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983 do not show the above reference, the fact remains that the further extension have been obtained.

5. The Court has relied on the judgement of this Court held in the case of ***N.Sekar vs. Principal Cum Cooperative Tribunal and others*** reported in 2009 ***CTC 473*** to get convinced that non-furnishing of the 81 enquiry report does not vitiate the 87 proceedings. In the above judgement it is held that the records would show that the petitioner has been given with sufficient opportunity to put forth his case during his enquiry proceedings initiated under Section 81 of the Act.



6. It is further held that only if sufficient opportunity was not given to him, non-furnishing of the 81 enquiry report would cause prejudice to the petitioner. In the instant case, it is observed that the petitioner was given repeated notice for making his appearance, but he did not actively participate in the same. In the matter involving WP No.3770 of 2024, there are some discrepancies in determining the loss caused to the society during 87 proceedings, and this has caused a fresh enquiry as well. In such a case, it is reasonable to furnish a copy of the report to the petitioner.

7. The Court has further observed that there are certain reports submitted to the court where the subsequent recoveries have been made and they have been deducted from the amount claimed to be recoverable from the petitioner. Even before this Court, the petitioner has continuously made a claim that the alleged loss incurred by the bank has been already paid and that the bank has to pay the balance amount to the petitioner. In such a case, getting a calculation memo from both sides would be appropriate to find out what really was deducted subsequent to the 87 proceedings and how the petitioner has been affected.

8. The Court had ventured to get a calculation memo from the side of the petitioner also in order to tally both the particulars and arrive at a conclusion



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whether the petitioner had made over and above the amount determined already. On this limited point, I feel the matter has to be remitted back to the file of the Special Tribunal for Cooperative Cases, Chennai, by setting aside the order of the dismissal.

9. In the result, these Civil Revision Petitions are **disposed**. The impugned orders passed by the Deputy Registrar, Cooperative Societies (Credit) Chennai 600 108, namely the 1st respondent, are set aside, and the learned Chief Judge, Court of Small Causes, Chennai is directed to dispose of the civil miscellaneous appeals in CMA.Nos.23 & 24 of 2019 within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petitions are closed.

14.11.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

jrs



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R.N.MANJULA, J.

jrs

To

1. The learned Chief Judge,
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2. The Deputy Registrar of
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