



C.R.P.(NPD).No.5398 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.01.2025

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

C.R.P.(NPD).No.5398 of 2024
and C.M.P.No.30081 of 2024

R.Ambika

.. Petitioner

Versus

1. The Surcharge officer,
Deputy Registrar of Cooperative Societies,
Vellore Zone, Having its office at No.6,
Thulasisingam Street,
Sankaranpalayam,
Vellore - 632 001.
 2. The Joint Registrar of Cooperative Societies,
Vellore Zone, Having its Office at
Collectorate Building, Sathuvachari,
Vellore - 632 009.
 3. The Joint Registrar/Managing Director,
Vellore District Central Cooperative Bank Limited,
Vellore having its office at Officers Line,
Vellore - 632 001.
 4. The General Manager,
Vellore District Central Cooperative Bank Limited,
Vellore, having his office at Officers Line,
Vellore - 632 001.
- .. Respondents



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order, dated 30.09.2024 made in C.M.A.(C.T.A.) No.12 of 2012, on the file of the Cooperative Tribunal/Principal District Court, Vellore District confirming the Surcharge Order, dated 01.09.2021 made in S.C.No.01/2021-22/Sa.Pa., on the file of the Surcharge Officer/Deputy Registrar of Cooperative Societies, Vellore and quash the same.

For Petitioner : Mr.M.R.Dhalapathy Vignesh Kumar

For Respondent : Mr.N.Muthuvel, Government Advocate,
for RR-1 to 3

: Mr.D.Gopal, for R4

ORDER

Mr.N.Muthuvel, learned Government Advocate takes notice for the respondent Nos.1 to 3 and *Mr.D.Gopal*, learned Counsel for the fourth respondent.

2. This Civil Revision Petition is filed feeling aggrieved by the order passed by the Cooperative Tribunal in C.M.A (C.T.A) No.12 of 2021, dated 30.09.2024.



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3. When the matter came up for hearing, the learned Counsel for the petitioner would submit that in this case, the surcharge proceedings were taken as against the non-recovery of the loan amount. This Court, in respect of a co-delinquent namely one *J.Jayakumar*, considered the very same surcharge order in C.R.P.No.4618 of 2024 and by the order, dated 02.12.2024, allowed the Civil Revision Petition on the ground that there is absolutely no evidence whatsoever during the enquiry under Section 87 of the Tamil Nadu Co-operative Societies Act to prove the willful negligence on the part of the employee. When it was not established that there was any willful act or deliberate attempt by the employees, mere non-recovery of the loan amount cannot be a cause for initiation of surcharge proceedings. Paragraph Nos.8 to 10 of the said order are extracted hereunder for ready reference:-

"8. In the instant case, no evidence was adduced during the enquiry under Section 87 of the Act to prove the wilful negligence on the part of the civil revision petitioner. Further more, it is not established that there was willfull act in a deliberate manner by the civil revision petitioner, which was the cause for loss to the society, the respondents have not initiated any suit proceedings during his tenure. In such circumstances, mere negligence or inaction on the part of the petitioner, will not amount to willful negligence.

9. In view of the foregoing discussion, this court is of the view that the respondents have not made out a case of willful negligence on the part of the petitioner to cause



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loss to the society and hence, the surcharge order passed by the first respondent and confirmed by the appellate authority are liable to be set aside.

10. Accordingly, this civil revision petition is allowed and the impugned order passed by the learned Principal District Judge, Cooperative Tribunal, Vellore in CMA (CTA) No.11/2021, dated 30.09.2024, confirming the surcharge order dated 01.09.2021 passed by the first respondent is set aside. There shall be no order as to costs. connected miscellaneous petition is closed."

4. The learned Counsel for the respondents are not in a position to distinguish the present petitioner with that of the petitioner in C.R.P.No.4618 of 2024, *J.Jayakumar* and it can be seen that it is covered by the very same surcharge order.

5. In view of thereof, this Civil Revision Petition is also allowed on the same terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

09.01.2025

Neutral Citation : no
grs

To

1. The Surcharge officer,



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D.BHARATHA CHAKRAVARTHY, J.

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