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C.R.P.No.203 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

C.R.P.No.203 of 2025

and

C.M.P.No.1338 of 2025

A.Prem Anand

... Petitioner

Vs.

1. The Surcharge Officer,
The Deputy Registrar of Co-operative Societies,
Vellore District,
Vellore.
2. The Special Officer,
Vellore District Central Cooperative Bank,
Gudiyatham Branch,
Vellore District.
3. The Joint Registrar,
Cooperative Society,
Vellore District.
4. The General Manager,
Vellore District Central Cooperative Bank,
Vellore.

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Decree and Judgment made in C.M.A.No.13 of 2021 dated 30.09.2024 on the file of the Principal District Judge, Vellore (Co-



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operative Tribunal) confirming the Surcharge order dated 01.09.2021 made in Surcharge Number 01/2021-2022/Sa.Pa. passed by the first respondent.

For Petitioner : Mr.S.Sairaman

For Respondents : Mr.M.Murali
Government Advocate

ORDER

The Civil Revision petition is filed to set aside the decree and judgement made in C.M.A.No. 13 of 2021 dated 30.09.2024 on the file of the Principal District Judge, Vellore (Co-operative Tribunal) confirming the surcharge order dated 01.09.2021 made in Surcharge Number 01/2021-2022/Sa.Pa. passed by the first respondent.

2. When the matter came up for hearing, the learned counsel appearing on behalf of the petitioner would submit that this matter is also covered by the earlier order that is passed by this Court in C.R.P.(NPD). No. 5398 of 2024 dated 09.01.2025, whereby yet another order in C.R.P.No. 4618 of 2024 was followed by this Court and this case is also arises out of the self same order of the Co-operative Tribunal. The relevant portion of the said order is extracted hereunder for ready reference:-



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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 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



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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 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.”

3. In view thereof, this Civil Revision Petition is allowed on the same terms. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.01.2025

Neutral Citation: Yes/No
nsl

To

1. The Surcharge Officer,
The Deputy Registrar of Co-operative Societies,
Vellore District, Vellore.
2. The Special Officer,
Vellore District Central Cooperative Bank,
Gudiyatham Branch, Vellore District.
3. The Joint Registrar,
Cooperative Society, Vellore District.
4. The General Manager,
Vellore District Central Cooperative Bank,
Vellore.

D.BHARATHA CHAKRAVARTHY, J.



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