



WEB COPY

WP No. 44592 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24-11-2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 44592 of 2025

1. K.Krishnan

Petitioner(s)

Vs

1. The Registrar of Co-operative Societies
170, NVN Maligai, Kilpauk, Chennai-10

2.The Deputy Registrar Of Co-operative Societies
Omalur Circle, Salem District

3.S.420, Ramamurthy Nagar Primary
Agricultural Co-operative Credit Society,
Rep By Its Administrator,
Ramamurthy Nagar,
Omalur Taluk,
Salem District.

Respondent(s)

PRAYER

calling for the records of the orders passed by the 2nd respondent in Na.Ka.3312/2025 Sa.Pa dated 15.10.2025 quash the same and this Court may fix the reasonable rate of interest on the surcharge order passed by the 2nd respondent in Na.Ka.No.1713/2004 sa.pa dated 21.11.2008.

For Petitioner(s): M/S.M.S.Palaniswamy
V.Ravichandran
P.K.Shiva Kumar
J.Lingitha

For Respondent(s): Mr.L.S.M.Hasan Fizal, AGP
For Mrs.C.Meera Arumugham,
AGP (R3)
Mr.E.Ranganayaki, AGP (RR1&2)



ORDER

The petitioner has been working as the Secretary of the 3rd respondent society since 15.05.1989. Between 10.08.2001 and 16.05.2002, he is said to have issued loans on the basis of fraudulent and forged documents inviting surcharge proceedings by the 2nd respondent. The tune to which the Society has lost its funds was an extent of Rs.23,89,556.77/-.

2. The surcharge proceedings ended against the petitioner on 21.11.2008. The aforesaid amount was directed to carry an interest of 17% p.a. The petitioner, aggrieved by the order, preferred an appeal in C.M.A.(C.S.) No.13 of 2011 on the file of the Co-operative Tribunal cum Principal District Judge at Salem. The appeal came to be dismissed on 28.03.2018, confirming the surcharge award. Challenging the same, a Civil Revision Petition was preferred before this Court in C.R.P. No. 326 of 2021. This Court dismissed the Revision on 24.03.2023, confirming the surcharge award.

3. Subsequently, the petitioner gave a representation to the 2nd respondent, seeking a direction to fix a reasonable rate of interest on the surcharge amount. This was in W.P. No. 6840 of 2025. The writ petition came to be disposed by an order dated 25.03.2025, directing the 2nd respondent to issue notice to the petitioner and pass appropriate orders on the same.



4. In obedience to the orders of this Court, the 2nd respondent passed an order on 15.10.2025 confirming the liability of the petitioner at 17%. Challenging the same, the present writ petition.

5. I heard Mr.M.S.Palaniswamy, for the petitioner, Ms.E.Ranganayaki for R1 and R2 and Mr.L.S.M.Hasan Fizal for Mrs.Meera Arumugham for R3.

6. The narration of the facts shows that the surcharge order was confirmed in appeal, and the appellate Court's order has also found acceptance in the hands of this Court.

7. The plea of Mr.M.S.Palaniswamy is that an interest rate of 17% is usurious and that the Statute has not fixed any rate of interest. Relying upon the judgment of the Supreme Court in ***I.K.Merchants Pvt. Ltd. & Ors. -vs- States of Rajasthan*** [made in Civil Appeal Nos. 4560-4563 of 2025 dated 01.04.2025], Mr.M.S.Palaniswamy pleads that the rate of interest should be scaled down to a reasonable level and should not be fixed at 17% p.a.

8. The rate of interest is also a subject matter of appeal and revision. Once the surcharge order has been confirmed by this Court, the order passed by the authority merges with the order passed by this Court. Once the order merges,



the 2nd respondent does not have the jurisdiction to modify the same. It has been settled by the Supreme Court that merger applies to the revision also. [See, *Gojer Bros. (P) Ltd. v. Ratan Lal Singh, (1974) 2 SCC 453*]

9. If I were to grant the remedy, which Mr.M.S.Palaniswamy seeks, it will amount to sitting on an appeal against the order passed by this Court in C.R.P. No. 326 of 2021 dated 24.03.2023.

10. A writ Court does not sit on appeal against the order passed by the Revisional Court. The plea of Mr.M.S.Palaniswamy is literally a plea, that ought to have been taken before the learned Single Judge in the Revision or he should have moved the learned Single Judge for Review of the order on the rate of interest. A writ is no solution to such a prayer.

11. Insofar as the judgment of the Supreme Court is concerned, it was an appeal that had been preferred against the original decree passed to a Division Bench of the Calcutta High Court. The Bench had confirmed the view of the learned Single Judge. Against the said proceedings, an appeal was preferred to the Supreme Court. When the main Appeal or Revision is before a Court, that Court certainly has the power to modify the rate of interest. Once the proceeding is over, a writ petition can certainly not lie.



12. In fact, I am of the view that the 2nd respondent himself does not possess the jurisdiction to modify the order, which has got the seal of approval by this Court in Revision.

13. At this stage, Mr.M.S.Palaniswamy seeks permission of this Court to move a Review or an Appeal. Though no such liberty is necessary, it is always open to the petitioner to seek for a Review or file an Appeal against the order in C.R.P. No. 326 of 2021 dated 24.03.2023.

14. With the above observation, the writ petition stands dismissed. No costs.

24-11-2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes
Neutral Citation: Yes/No
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V.LAKSHMINARAYANAN J.

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To

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