



C.R.P. (PD (MD) No.996 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.03.2025

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.(PD) (MD) No.996 of 2021

and

C.M.P.(MD) No.5682 of 2021

The Deputy Registrar,
Cooperative Societies (Housing),
Tirunelveli, Tirunelveli-2.

... Petitioner

Vs.

R.Balaiyan,
Former Secretary,
Cooperative Bank,
Y.339, Neeyancode,
Neyyoor Post,
Kanyakumari District.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India against the judgment and decree dated 17.12.2018 passed in C.M.A.(CS) No.57 of 2010 on the file of the Principal District Judge, Kanyakumari at Nagercoil.

For Petitioner :

Mr.M.Ajmalkhan
Senior Counsel



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assisted by Mr.R.Ragavendran
Government Advocate

For Respondent : No appearance

ORDER

This civil revision petition, under Article 227 of the Constitution of India, has been filed by the Deputy Registrar of Cooperative Societies, Tirunelveli against an order passed by the Appellate Tribunal in an appeal filed under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as “the Act, 1983”) against an order passed under Section 87 of the Act, 1983.

2. The Deputy Registrar, who is the petitioner in this civil revision petition, is the person authorised by the Registrar of Cooperative Societies to discharge his functions under Section 87 of the Act, 1983. The Deputy Registrar exercising power under Section 87 of the Act, 1983 would be acting as a quasi-judicial authority and therefore, this Court has entertained a doubt about the maintainability of the civil revision petition at the instance of the Deputy Registrar of Cooperative Societies.



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3. Accordingly, Mr.M.Ajmalkhan, learned Additional Advocate General assisted the Court and submitted that the Deputy Registrar exercising powers under Section 87 of the Act, 1983 would be discharging the quasi-judicial functions and he has also drawn the attention of this Court to sub-section (4) of Section 87 of the Act, 1983, which reads as under:

“87(4). The Registrar or the person authorised by him shall, when acting under this section, have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:-

- (a) summoning and enforcing the attendance of any person and examining him on oath;*
- (b) requiring the discovery and production of any documents;*
- (c) reception of evidence on affidavits;*
- (d) requisitioning any public record from any Court or office;*
- (e) issuing Commission for examining of witnesses.”*



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4. From the perusal of sub-section (4) of Section 87 of the Act, 1983, it is fortified that the Deputy Registrar or the Registrar exercising power under Section 87 of the Act, 1983 is conferred with powers of a civil Court under the Code of Civil Procedure and therefore, any power exercised under Section 87 of the Act, 1983 would definitely fall within the scope of quasi-judicial function.

5. The learned Additional Advocate General also further brought to the notice of this Court a decision of the Hon'ble Supreme Court in the case of *Airports Economic Regulatory Authority of India vs. Delhi International Airport Ltd. And others* reported in **2024 SCC OnLine SC 2923**, wherein the Honb'le Apex Court after having discussed the entire case law in elaborate, came to the conclusion that the authority discharging the quasi-judicial function cannot be arrayed as a party respondent to the appeal or revision filed against its orders. The relevant portion from the said decision reads as under:

“33. In view of the above discussion, the following principles emerge:



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a. An authority (either a judicial or quasi-judicial authority) must not be impleaded in an appeal against its order if the order was issued solely in exercise of its “adjudicatory function”;

b. An authority must be impleaded as a respondent in the appeal against its order if it was issued in exercise of its regulatory role since the authority would have a vital interest in ensuring the protection of public interest; and

c. An authority may be impleaded as a respondent in the appeal against its order where its presence is necessary for the effective adjudication of the appeal in view of its domain expertise.”

6. Here is a converse case where the authority who concluded the proceedings as a 'quasi-judicial authority' has come before this Court by filing the present civil revision petition. Once it is concluded that the quasi-judicial authority cannot be impleaded as a respondent to a proceedings, such a quasi-judicial authority shall be not entitled initiate the further proceedings initiated against the order passed by the said quasi-judicial authority.



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7. In the light of the above, this civil revision petition cannot be entertained at the instance of the Deputy Registrar of the Cooperative Societies, who acted as a quasi-judicial authority and exercised power under Section 87 of the Act, 1983. Accordingly, this Civil Revision Petition is dismissed leaving it open to the aggrieved society to take appropriate steps against the order under revision. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

8. However, the learned Additional Advocate General, has expressed an apprehension that the Society, which is in fact aggrieved by an order passed by the Appellate Tribunal may not choose to contest the said order, as the persons who are responsible for such mis-management or misappropriation would be continue to be in management of the said Society.

9. No doubt, such a situation may arise in a particular facts and circumstances of the case, but that would not deprive the authorities under the Act, 1983 to take appropriate action against the persons who are mis-managing such societies. The Registrar of Co-operative Societies is always



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competent to initiate appropriate action against the Cooperative Societies who are found to be involved in mis-managing the affairs or failed to protect the interest of the Society.

10. This Court has come across several such civil revision petitions filed by the Deputy Registrar of Cooperative Societies, who exercised power under Section 87 of the Act, 1983 and also observed that the learned Cooperative Tribunals entertaining appeals under Section 152 of the Act, 1983 without impleading the concerned society in respect of which proceedings under Section 87 were initiated. Thereby, virtually there was no opportunity to the party which is actually going to be affected, if the order passed under Section 87 is to be reversed. Under those circumstances, this Court is of the considered view that appropriate directions be issued to all the Cooperative Tribunals exercising power under Section 152 of the Act, 1983.

11. In the light of the above, the following directions are issued:

(i) All the Principal District Judges/Cooperative Tribunals are



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directed not to entertain appeals against the orders passed under Section 87 of the Act, 1983 without impleading the concerned society as party respondent in the appeal; and

(ii) The Registry is also directed not to number the civil revision petition filed under Article 227 of the Constitution of India at the instance of the Deputy Registrar/Registrar of Cooperative Societies against the orders passed by the Cooperative Tribunal in exercise of power under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983.

12. Further, it is brought to the notice of this Court that the Principal District Judges of the respective Districts were designated as Appellate Tribunal under Section 152 of the Act, 1983. Hence, the Registrar (Judicial) is directed to communicate this order to all the Principal District Judges in the State of Tamil Nadu.

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NCC : Yes/No
Index : Yes/No
ABR



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To

The Principal District Judge,
Kanyakumari at Nagercoil.

Copy to:

The Sub-Assistant Registrar (AE),
Madurai Bench of Madras High Court,
Madurai.



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MUMMINENI SUDHEER KUMAR, J.

ABR

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