



W.P(MD)No.23618 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

W.P(MD)No.23618 of 2016

and

W.M.P.(MD)No.16981 of 2016

C.Muthu

... Petitioner

Vs.

1.The Principal District Court / The Co-operative
Society Tribunal,
Dindigul.

2.The Deputy Registrar of Co-operative Societies,
Dindigul, Dindigul District.

3.The President,
Dindigul Urban Co-operative Bank,
No.2, New Pensioner Street, Dindigul.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the 1st respondent in C.M.A.(CS)No.10 of 2008, dated 22.12.2015, confirming the surcharge order passed by the 2nd respondent in surcharge proceeding No.Ta.Va.Ka.11/2005/Ku.Na(6), dated 28.11.2006, on the file of the 2nd respondent and quash the same as illegal.



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For Petitioner : Mr.K.R.Laxman
For R2 : Mr.P.Thambidurai,
Government Advocate

ORDER

According to the petitioner, he is working as Assistant in the 3rd respondent Society and he does not have any role in either disbursing the loan amount or processing the loan papers. However, he has been falsely implicated in an enquiry under Section 81 of the Co-operative Society Act, alleging that for the loan sanctioned to the member, namely, Krishnamoorthy to the tune of Rs.5,00,000/-, a sum of Rs.4,75,86/- was not recovered. Therefore, surcharge proceedings were initiated against the petitioner. Challenging the same, the petitioner has filed an appeal in C.M.A.(CS)No.10 of 2008 before the 1st respondent. However, the 1st respondent, vide order dated 22.12.2015, dismissed the appeal filed by the petitioner. Aggrieved by the same, the petitioner has filed this Writ Petition.

2.The learned counsel appearing for the petitioner would submit that the surcharge proceedings are initiated not only against the petitioner but also against five persons, including Secretary of the society. As far as the collection of loan is concerned, the petitioner has no role to play and the collection power



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lies with the Secretary and the President / Special Officer of the society. When such being the case, initiation of the surcharge proceedings against the petitioner for not taking steps to recover the loan is not proper. Though this aspect was addressed before the Co-operative Society Tribunal / 1st respondent, it was not considered in proper perspective manner.

3.The learned Government Advocate appearing for the 2nd respondent would submit that the borrower has settled the loan amount with interest to the tune of Rs.6,42,600/- as early as on 25.10.2007. Therefore, as on date, there is no amount lying for recovery against the borrower.

4.Considering the submissions made on either side, this Court is of the view that though the loan amount has been recovered from the borrower on 25.10.2007, the said fact has not been brought to the knowledge of the 1st respondent, while dismissing the appeal filed by the petitioner. Now only, it is brought to the knowledge of the petitioner. Therefore, the 1st respondent had no occasion to deal with the said aspect, since there was no information available with the petitioner. Hence, continuation of the surcharge proceedings against the petitioner is double jeopardy, which cannot be permitted.



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5.For all these reasons, the impugned order is liable to be quashed, accordingly, it is quashed. This Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

29.01.2025

NCC : Yes / No
Index : Yes / No

Yuva

To

The Deputy Registrar of Co-operative Societies,
Dindiugul, Dindigul District.



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KRISHNAN RAMASAMY, J

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