

CRP(MD)Nos.2587, 2588 & 2589 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 25.09.2025

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(MD)Nos.2587, 2588 and 2589 of 2025

CRP(MD)No.2587 of 2025

The Deputy Registrar of Co-operative Housing,
Tirunelveli Division,
Tirunelveli – 2.

... Petitioner

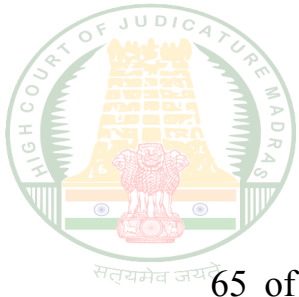
versus

1.T.Packiaraj
2.V.Rajendran
3.P.Subramanian
4.S.Kandasamy
5.Santhanaraj
6.T.J.Rajan
7.M.Dharmaseelan

8.The Principal District Judge,
Special Tribunal For Cooperative Cases,
Thoothukudi.

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgment dated 25.02.2010 passed in C.M.A.(CS)No.



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65 of 2005 on the file of the learned Special Tribunal for Co-Operative Cases (Principal District Court), Thoothukudi, by allowing this Civil Revision Petition.

For Petitioner : Mr.A.K.Baskarapandiyan
For R1 : Mr.V.Rajiv Rufus
For R2 : Mr.D.Saravanan
For R5 : Mr.G.Prabhu Rajadurai
For R8 : Mr.C.Venkatesh Kumar
For RR3, 4, 7 : No appearance

CRP(MD)No.2588 of 2025

The Deputy Registrar of Co-operative Housing,
Tirunelveli Division,
Tirunelveli – 2.

... Petitioner

versus

1.P.Subramanian
2.C.T.Packiaraj
3.V.Rajendran
4.S.Kandasamy
5.Santhanaraj
6.T.J.Rajan
7.M.Dharmaseelan

8.The Principal District Judge,
Special Tribunal For Cooperative Cases,
Thoothukudi.

... Respondents



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Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the Judgment dated 25.02.2010 passed in C.M.A.(CS)No. 59 of 2005 on the file of the learned Special Tribunal for Co-Operative Cases (Principal District Court), Thoothukudi.

For Petitioner : Mr.A.K.Baskarapandiyan
For R2 : Mr.V.Rajiv Rufus
For R3 : Mr.D.Saravanan
For R5 : Mr.G.Prabhu Rajadurai
For R8 : Mr.C.Venkatesh Kumar
For RR1, 4, 7 : No appearance

CRP(MD)Nos.2589 of 2025

The Deputy Registrar of Co-operative Housing,
Tirunelveli Division,
Tirunelveli – 2.

... Petitioner

versus

1.Santhanaraj
2.S.T.Packiaraj
3.V.Rajendran
4.P.Subramanian
5.S.Kandasamy
6.T.J.Rajan
7.M.Dharmaseelan

8.The Principal District Judge,
Special Tribunal For Cooperative Cases,
Thoothukudi.

... Respondents



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Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the judgment dated 25.02.2010 passed in C.M.A.(CS). No.3 of 2006 on the file of the learned Special Tribunal for Co-Operative Cases (Principal District Court), Thoothukudi, by allowing this civil revision petition.

For Petitioner	:	Mr.A.K.Baskarapandiyan
For R1	:	Mr.G.Prabhu Rajadurai
For R2	:	Mr.V.Rajiv Rufus
For R3	:	Mr.D.Saravanan
For R8	:	Mr.C.Venkatesh Kumar
For RR4, 5, 7	:	No appearance

COMMON ORDER

The Deputy Registrar of Co-operative Housing, Tirunelveli Division, has filed these Civil Revision Petitions as against the orders passed by the Co-operative Tribunal in C.M.A.(CS)No.65, 59 of 2005 and 3 of 2006, dated 25.02.2010.



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2. The above Civil Miscellaneous Appeals are pursuant to the orders of the Deputy Registrar of Co-operative Housing passed under Section 87 of the Tamil Nadu Co-operative Societies Act. The Deputy Registrar has found that the private respondents are responsible for the loss caused to the Society, has levied penalty under Section 87 of the Tamil Nadu Co-operative Societies Act and ordered for recovery from them. The private respondents, namely, Packiaraj, Subramanian and Santhanaraj, have preferred appeals before the Co-operative Tribunal in C.M.A.(CS)No.65, 59 of 2005 and 3 of 2006. The Co-operative Tribunal, by referring to the second proviso to Section 87 of the Tamil Nadu Co-operative Societies Act, has allowed those appeals that the surcharge proceedings have not been concluded within the stipulated period of six months. Challenging the same, these petitions are filed.

3. Today, when these petitions are taken up for hearing, it is reported that the private respondents, namely, one Packiaraj and Rajendiran died.



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4. Mr.V.Rajiv Rufus, learned counsel for the private respondent Packiaraj has expressed his difficulty in finding out the legal heirs of the deceased Packiaraj.

5. It appears that the private respondent Rajendiran (now deceased), has not filed any appeal as against the surcharge order.

6. The learned counsel for the petitioner submits that the private respondent Rajendiran was represented by one Santhanaraj, the main Contractor, who was also held responsible under the surcharge proceedings and the said Santhanaraj has challenged the surcharge proceedings on his behalf, by way of filing an appeal in CMA(CS)No.3 of 2006 and also as a power of attorney for other members, who are held responsible under Section 87 of the Co-operative Societies Act.

7. Mr.G.Prabhu Rajadurai, learned counsel appearing for the private respondent Santhanaraj, submits that he is also not in a position to contact his client.



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8. Mr.D.Saravanan, learned counsel appearing for the private respondent Rajendiran submits that the said Rajendiran died and they are not in a position to find out the legal heirs of the deceased Rajendiran. He further claims that the letters sent by him has been returned as 'he is no more' and therefore, they are not in a position to file necessary application to implead the legal heirs of the deceased Rajendiran. Further, the notice sent to the private respondent Subramanian, who filed CMA(CS)No.59 of 2005 before the Co-operative Tribunal was not served and it was returned as 'his address could not be located'.

9. The learned counsel for the petitioner submits that the entire proceedings were taken by the Co-operative Tribunal without even impleading the Society which has suffered loss. He further submits that the Tribunal, by relying on the Judgment of this Court in ***T.V.Ekambaram vs. Co-operative Tribunal-cum-District Judge, Madurai and two others***, reported in ***2000 (2) CTC 659***, has allowed the appeals filed by the private respondents. The learned counsel, by referring to a Judgment of the



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Division Bench of this Court in ***S.V.K.Sahasramam vs. Deputy Registrar of Co-operative Societies, Thiruvannamalai Circle, reported in (2008) 8 MLJ 231***, submits that the findings of this Court in ***T.V.Ekambaram vs. Co-operative Tribunal-cum-District Judge, Madurai***, is not good law. Therefore, the orders of the Tribunal are liable to be set aside.

10. The Deputy Registrar has passed the surcharge order as against all the private respondents. However, among the private respondents, one T.Packiaraj, P.Subramanian, and Santhanaraj, namely, the respondents 1, 3 and 5 in CRP(MD)No.2587 of 2025 have preferred Civil Miscellaneous Appeal before the Co-operative Tribunal in CMA(CS)No.65, 59 of 2005 and 3 of 2006. The Tribunal, without considering the merits of the appeals, has decided the matters, based on the Judgment of this Court in ***T.V.Ekambaram and two others vs. The Co-operative Tribunal cum District Judge, Madurai and two others***, reported in ***2000 (2) CTC 659***. The said Judgment referred by the Tribunal has been considered by a Division Bench of this Court, in ***S.V.K.Sahasramam vs. Deputy Registrar of Co-op. Societies, Tiruvannamalai Circle, Tiruvannamalai and others***

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reported in **2008 (8) MLJ 231**, wherein, it has been held that the second proviso to Section 87 of the Act is only a directory and not a mandatory.

The relevant portion is extracted as under:-

"10. Before the learned Judge of the writ court, the appellant relied on two learned single Bench judgments of this Court rendered in the case of T.V.Ekambaram vs. The Co-operative Tribunal-cum-District Judge, Madurai, reported in 2000 (2) C.T.C. 659 and in the case of Gabriel vs. The Deputy Registrar (Housing), Cuddalore, reported in 2003 (3) C.T.C. 23. In both these two judgments, the provisions of Section 87 of the said Act which relate to surcharge proceedings were examined and the learned Judges in both the aforesaid judgments construed the following proviso to Section 87:

"Provided further that the action commenced under this sub-section shall be completed within a period of six months from the date of such commencement or such further period or periods as the next higher authority may permit but such extended period or periods shall not exceed six months in the aggregate."

Considering the said time limit of six months, the learned Judges came to the conclusion that the said period of six months is mandatory.

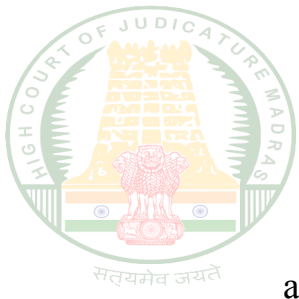


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11. We are constrained to hold that even though no appeal has been taken to us from the said judgments, yet having regard to the well settled legal position which has been referred to hereinabove, the finding of the learned Judges in these two judgments that the period of six months in the second proviso to Section 87 of the said Act is mandatory is not a correct finding in law. We find that even though before the learned Judge of the writ court those two judgments of the learned single Bench were cited, the learned Judge of the writ court was not swayed by those two decisions and came to a correct finding, relying upon the well settled proposition laid down by the Supreme Court as pointed above hereinabove.

12. We, therefore, affirm the order of the learned single Judge in this case. We are of the view that in a case where there are allegations of embezzlement and misappropriation of public funds, the members of general public who have been cheated have no control over those who hold the enquiry in respect of the time limit. To hold that such an enquiry which has been continued beyond the time limit is bad would cause great injustice.

13. Therefore, if such enquiry is continued beyond the time limit mentioned in the relevant statute, the said time cannot be held to be mandatory in view of the principles laid down in Montreal Street Railway Company (supra), which has been



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affirmed by the Supreme Court.”

11. Since the Division Bench of this Court in ***S.V.K.Sahasramam vs. Deputy Registrar of Co-op. Societies, Tiruvannamalai Circle, Tiruvannamalai and others*** reported in **2008 (8) MLJ 231** has held that the ***T.V.Ekamabram's case*** is not good in law, the orders passed by the Tribunal based on the ***T.V.Ekamabram's case*** cannot be sustained. Therefore, this Court is inclined to allow these Civil Revision Petitions and to remand the matters for fresh consideration.

12. Accordingly, these Civil Revision Petitions are allowed and orders passed by the Special Tribunal for Co-operative Cases (Principal District Court), Thoothukudi, in CMA(CS)Nos.59 and 65 of 2005 and 3 of 2006, dated 25.02.2010 are set aside and the matters are remanded back to the Special Tribunal for Co-operative Cases for fresh consideration.

13. The Tribunal shall implead the Society, namely, EE-197, Thoothukudi Co-operative Housing Society, as a party to the proceedings



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and after completing the service of summons to the respective parties, shall try to conclude the proceedings as expeditiously as possible, within a period of six months from the date of receipt of a copy of this order. However, it is made clear that this Court has not expressed anything on the merits of the claim between the parties and the Tribunal is expected to take a decision on merits of the claim of the respective parties. No costs.

25.09.2025

Index : Yes / No.
Internet : Yes / No.
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To

The Principal District Judge,
Special Tribunal For Cooperative Cases,
Thoothukudi.



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B.PUGALENDHI, J.

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