



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02-01-2026

CORAM

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRP (NPD).No. 2070 of 2024  
& C.M.P.No.11091 of 2024

B.Mazhavarayar,  
S/o.Boorasamy,  
New Street, Keezhbuvanagiri, Bhuvanagiri Post,  
Bhuvanagiri Taluk, Cuddalore District.

... Petitioner

vs.

1. The Deputy Registrar  
Co-operative Societies,  
Periyar Street, Chidambaram, Cuddalore District.

2.The President,  
E2326, Keezhbuvanagiri Primary  
Agricultural Co-operative Credit Society Ltd.,  
No.95, Main Road, Keezhbuvanagiri,  
Bhuvanagiri Post and Taluk,  
Cuddalore District.

.... Respondents

**Prayer:** Civil Revision Petition filed under Article 226 of Constitution of India, to set aside the judgement and decree made in C.C.M.A.No.1/2021 vide order dated 20.09.2023 on the file of the learned Principal District Judge, Cuddalore, Cuddalore District and allow this Civil Revision Petition.

For Petitioner : Mrs.Chenthoori Pugazendhi,  
for Mr. K. Balu  
For Respondents : Mr.T.Arunkumar,  
Addl. Govt. Pleader, for R2  
: Mr.B.Tamilnidhi,  
Additional Govt. Pleader, for R1

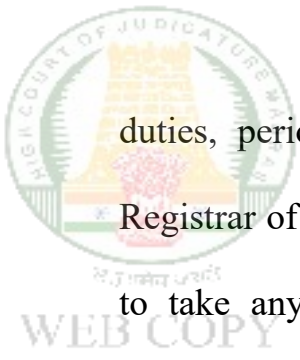


## **ORDER**

The Civil Revision Petition is filed challenging the judgment and decree of the Principal District Judge, Cuddalore, made in C.C.M.A No. 1 of 2021, dated 20.09.2023. By the said order, the Co-operative Tribunal confirmed the order of surcharge passed against the petitioner on 02.11.2020. By the said order of surcharge, the petitioner, being the Secretary of the Co-operative Society, was charged with wilful negligence for not taking any action with reference to 24 loans mentioned in the surcharge order. By the said surcharge order, three sets of charges were levelled against the petitioner.

2. The charge against the petitioner is that, with reference to Charge No.1, 24 loans disbursed to the farmers became time-barred, totalling Rs.20,01,076/-. Charge No.2 relates to five loans amounting to Rs.3,99,014/-, and Charge No.3 relates to 28 medium-term loans amounting to Rs.6,62,007/-. In all, the amounts total Rs.30,62,097/-. Therefore, the surcharge order was passed, directing the petitioner to pay the said sum of Rs.30,62,097/- along with further interest at the rate of 18% per annum.

3. Aggrieved thereby, the petitioner filed the appeal. It is the contention of the petitioner that there was no wilful negligence on the part of the petitioner. From the year 2013, the petitioner was made in-charge as Secretary and, while discharging his



duties, periodically issued demand notices to the farmers. By a circular of the Registrar of Co-operative Societies dated 24.01.2017, the Societies were directed not to take any steps against the farmers who had defaulted in payment of loans, considering the circumstances of drought, etc. Accordingly, when the ban was in force from 2017 up to the year 2018 and the petitioner retired in the year 2019, it cannot be said that the petitioner acted with any negligence, much less with wilful negligence.

4. The petitioner also relied upon the Division Bench judgment of this Court in *S.Ramadevi vs. The Special Officer, Ambur Co-operative Sugar Mills, Vadapudupet, Vellore District (2016) 4 LW 452*, placing specific reliance on paragraphs 25 and 26 of the said judgment. However, the Tribunal considered that, as the Secretary, the petitioner had not filed the civil suits in time and had not taken any steps even to initiate action under the Act. Therefore, the Tribunal held that the action amounted to wilful negligence and upheld the surcharge order, against which the present Civil Revision Petition is filed. The Learned Counsel appearing on behalf of the petitioner would reiterate the submissions made before the Appellate Court and submit that this Court should interfere in the matter.

5. Per contra, the Learned Additional Government Pleader appearing on behalf of the respondents would submit that when the last dates for the various loans were expiring, wilfully and wontedly, the petitioner, being the Secretary, did not take any



action whatsoever, and no steps were taken to file any suit. Issuing demand notices even after the expiry of the limitation period only adds up to wilful misconduct and cannot be said to be any proper action on the part of the Secretary. Had the petitioner taken steps, and even if the suits were pending, these loans should have been subsequently included by the Government, with reference to small farmers, if applicable, under the waiver scheme. On account of the lapse, the loans could not be included in the waiver scheme, resulting in a loss to the Society. Therefore, no exception whatsoever can be taken to the surcharge order passed and the further order that is passed by the tribunal.

6. The Learned Additional Government Pleader would also reply to the Division Bench judgment in W.A.(MD).No.884 of 2018 (The Deputy Registrar of Co-operative Societies, Madurai Region, Madurai vs. P.Periyasamy), more specifically relying upon Paragraph No.19 of the said judgment.

*“19. In the present case, enquiry under Section 81 of the Act was conducted and in the enquiry, it was found that while the writ petitioner was working as a Secretary, he failed to initiate proceedings to recover the loans on behalf of the Society. This enquiry proceedings was not initiated only against the writ petitioner herein, it has also been initiated against almost seven persons, out of which, six persons were working as Secretary and the loss caused to the Society by their inaction, omission to take action against the defaulters leads to a total sum of Rs.27,77,061/-. The notice clearly reveals that this notice was*



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*not issued with malafide intention, but it is only based on the materials placed under enquiry report based on the enquiry conducted under Section 81 of the Act. Therefore, this Court is of the view that no grounds are made out to quash the show cause notice. Section 87 specifically empowers the Registrar to initiate proceedings against any person, if it appears that any person, who is or was entrusted with the organisation or Management of the Society or any past or present officer or servant of the Society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the Society or has caused any deficiency in the assets of the Society by breach of trust or wilful negligence. In this case, there is a specific allegation against the writ petitioner that he has willfully avoided the initiation of recovery proceedings leading to loss of Rs.8,85,489/- during his tenure. In this case, only the show cause notice issued against the writ petitioner has been challenged and this Court is of the view that since there is no violation of any jurisdiction or malafide intention or any bar in issuance of show cause notice under Section 87 against the writ petitioner herein, the interference by the learned Single Judge is not proper.”*

7. I have considered the rival submissions made on either side and perused the material records of the case. The law on the point of wilful negligence has since been decided, and the Division Bench has reiterated the same in ***S.Ramadevi*** (cited supra). Paragraphs 25 and 26 of the said judgment are extracted hereunder for ready reference:



*“25. The third and the last plea is actually the most crucial as to whether the appellant could be said to have acted with willful negligence. In this behalf, the learned counsel for the appellant has relied upon two judgments of this Court in S. Subramanian v. The Deputy Registrar of Co-operative Societies (Housing), Cuddalore, 2002-3-L.W. 185, and K Ajay Kumar Gosh v. Tribunal for Co-operative Cases, (2009) 4 MLJ 992, to contend that when requirements of Section 87 had not been satisfied, which warrants initiation of surcharge proceedings, the liability cannot be fastened. There has to be willful and wanton premeditation with a view to cause loss to the assets of the Society and “mere negligence cannot be a ground for surcharge and it must be willful negligence or intentional negligence and not mere carelessness or intention or inadvertence or a single lapse by oversight”. We extract the observations in the case of K. Ajay Kumar Gosh, supra, as hereunder:*

*“19. A detailed discussion has been made by making reference to various judgments on this aspect in another judgment reported in Sathyamangalam Cooperative Urban Bank Ltd. v. Deputy Registrar of Cooperative Society, (1980) 2 MLJ 17, it is held thus:*

*“The degree of negligence that is contemplated under Section 71(1) of the Tamil Nadu Cooperative Societies Act is not mere negligence, but wilful negligence. The word ‘wilful’ has not been defined in the Act. ‘Wilfulness’ or ‘wantonness’ imports pre-meditation or knowledge and consciousness that an injury or loss is likely to result from the act done or from the omission to act. It imports a constructive intention as to the consequences which, entering into the wilful act, the law imputes to the*



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*offender and in this way a charge, which otherwise would be mere negligence, becomes by reason of a reckless disregard of probable consequences, a wilful wrong. The act done or omitted to be done must be intended or must involve such reckless disregard of security and right as to imply bad faith. In examining whether there is wilful negligence, it has to be seen first whether the person concerned is guilty of negligence and if so, whether the said wilful negligence is the proximate cause of the injury or loss sustained.”*

*20. In the light of the decisions referred to above, it is clear that to pass surcharge order under Section 87 of the Act, appellants should have done an actionable wrong either by commission or omission in a deliberate and reprehensible manner with reckless callousness and with a supine indifference, without taking due care and caution ordinarily expected from a reasonable and prudent man under those existing circumstances. In the absence of such categorical finding by the Respondents, it is not possible to mulct the appellants with the loss caused to the society.” **(Emphasis supplied)***

*26. We are, thus, of the view that as the legal principles are quite settled, we have to only look into the application of the same in the facts of the present case. We are of the view that the appellate authority was right in coming to the conclusion that there is no willful negligence in the case of the appellant and this aspect has really not even been seriously touched upon by the learned Single Judge. Merely because loss is caused would not suffice. The appellant is not the beneficiary. There is no such willful negligence attributed to her. This is apparent from even the enquiry report, which we have referred to aforesaid. Mere*



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*use of the words “negligence and careless with selfish motive for gain” would not suffice when actually the facts do not make out such a case. Thus, the surcharge officer certainly fell into an error in imposing the liability on the appellant. The enquiry report discussed aforesaid itself shows that it is the third respondent who is found to have taken advantage of the situation in seeking to obtain illegal gain for himself. The pay bill was prepared by the third respondent in the computer and the abstract of the department wise pay bill alone used to be furnished to the Accountant and the Chief Accountant (appellant) and signatures obtained. Thus, both of them had been signing on the department wise pay bill abstract without seeing the pay bills. The third respondent/Mr. A. Kabali, thus, took advantage of the fact that it was not possible for others to verify the cheques and test the salary list which was running into 300 pages. It is in these circumstances that the fourth respondent has been exonerated of the liability even though the abstract pay bill was required to be verified by him as an Accountant and he alone was supervising each and every matter. The cheques signed by the appellant are actually in the nature of counter-signature and the Accountant himself had been exonerated. Merely because the appellant was the head of the department, the liability could not be fastened on her as no case of willful negligence is made out.”*

**8.** In this case, applying the aforesaid principles, this Court has to determine whether the non-filing of the suits was in a deliberate and reprehensible manner, with reckless callousness and supine indifference, or not.



9. The circular dated 24.01.2017 is extracted hereunder for ready reference.

அனுப்புநர்:

அ.ஞானசேகரன் இ.ஆ.ப  
கூட்டுறவுச் சங்கங்களின் பதிவாளர்  
எண். 170, பெரியார் ஈ.வே.ரா நெடுஞ்சாலைவங்கி  
கீழ்பாக்கம், சென்னை - 600010.

பெற்றுநர்:

- 1.மேலாண்மை இயக்குநர்  
தமிழ்நாடு மாநில தலைமை கூட்டுறவு
2. மேலாண்மை இயக்குநர்  
தமிழ்நாடு கூட்டுறவு வேளாண்மை  
மற்றும் ஊரக வளர்ச்சி வங்கி
3. அனைத்து மண்டல இணைப்பதிவாளர்
4. மேலாண்மை இயக்குநர்  
அனைத்து மத்திய கூட்டுறவு வங்கிகள்

ந.க.எண்.2712/2017/தொவசே 1

நாள்: 24.01.2017

ஐயா/அம்மையர்

பொருள்: கூட்டுறவு - கூட்டுறவு நிறுவனங்களின் விவசாயிகள் பெற்ற  
கடன்களில் - தவணை தவறிய கடன் தொகையை வசூலிக்க  
நடவடிக்கை மேற்கொள்வதைத் தவிர்த்தல் - தொடர்பாக.

தமிழ்நாட்டில் கூட்டுறவு கடன் நிறுவனங்களால் விவசாயிகளுக்கு வேளாண்மை மற்றும்  
வேளாண்மை சார்ந்த காரியங்களுக்காக குறுகிய கால பயிர் கடன்கள், வேளாண் சார்ந்த மத்திய கால  
கடன்கள் மற்றும் பண்ணை சார்ந்த நீண்ட கால கடன்கள் வழங்கப்பட்டு வருகின்றன.

இந்திய அரசின் பணமதிப்பு நீக்க நடவடிக்கை காரணமாக கூட்டுறவு கடன் நிறுவனங்களில்  
விவசாயிகள் வேளாண் காரியங்களுக்காக பெற்ற கடன்களை உரிய தவணை தேதிக்குள் செலுத்த  
இயலாத நிலை ஏற்பட்டுள்ளது. மேலும் தமிழ்நாட்டில் தற்போது போதுமான அளவு மழை இல்லாத  
காரணத்தினால் வறட்சி மாநிலமாக அறிவிக்கப்பட்ட நிலையில் விவசாயிகள் தாங்கள் சாகுபடி செய்த  
பயிர்களை அறுவடை செய்து கூட்டுறவு கடன் நிறுவனங்களில் பெற்ற கடன்களை தவணை  
தேதிக்குள் செலுத்த இயலாத நிலை உள்ளது மற்றும் குறுகிய கால பயிர்கடன்களை மத்திய கால  
கடன்களாக மாற்றி அமைச்ச அரசாணை (விலை) எண். 6 வருவாய் (பேரிடர் மேலாண்மை) துறை நாள்  
10.01.2017-ல் ஆணையிடப்பட்டுள்ளது. இச்சூழ்நிலையில் கூட்டுறவு கடன் நிறுவனங்களில் அவற்றின்  
உறுப்பினர் விவசாயிகள் பெற்ற பயிர்கடன் மற்றும் வேளாண் சார்ந்த கடன்களில் தவணை தவறிய  
இனங்களில் தவணைத் தொகையினை வசூலிக்க எவ்விதமான அறிவிப்பாணை (Notice)  
அனுப்புவதையும், சட்டப்பூர்வ நடவடிக்கை மேற்கொள்வதையும் மறு உத்தரவு வரும் வரை நிறுத்தி  
வைக்கும்படி அறிவுறுத்தப்படுகிறது.

ஓம்  
கூட்டுறவு சங்கங்களின் பதிவாளர்  
ஓப்பம்  
பதிவாளருக்காக

10. If the Registrar of Co-operative Societies issues a circular directing the Co-operative Societies not to proceed against the farmers, then from that point onwards, it cannot be said that there was any negligence on the part of the petitioner, much less wilful negligence.



11. On perusal of the surcharge order, it is evident that out of 24 mentioned in Charge No.1, in respect of 13 loans disbursed in the years 2014 and 2015, the limitation period expired only after the date of the Government circular. Similarly, with reference to the five loans mentioned in Charge No.2, for four loans the limitation period expires after the circular. With reference to the 28 loans mentioned in Charge No.3, in respect of one loan, the period expires after the circular. Therefore, taking no action in respect of those loan accounts cannot be held to be of willful negligence.

12. With reference to the rest of the loan. Accounts, it is contended in the counter-affidavit filed on behalf of the respondents, in paragraph 7(d), that when these loans were becoming time-barred during the year 2015-2016, nothing prevented the petitioner from instituting the suits. The petitioner could have taken action but did not; accordingly, the petitioner was negligent. In this case no other allegation of any personal gain or collusion is made. The specific law that is laid down with reference to the liability for the surcharge order under Section 87 of the Act, is that the wilfulness should be such that the commission or omission should be a deliberate and reprehensible one with reckless callousness and with supine indifference, without taking due care and caution that is ordinarily expected from a reasonable and prudent man under those existing circumstances.



**13.** In this context, the Government's repeated policies, while extending financial assistance to various Co-operative Societies and requesting them to disburse loans to farmers, and thereafter waiving the loans in a routine manner is the first fact that is considered. Second, even in this case, had the suit been filed and the files remained alive, these loans, subject to the condition that they be made by marginal farmers, would have been waived, which is another factor considered.

**14.** The Learned Additional Government Pleader appearing for the respondents submitted that, normally, the Government waives the loans only in respect of the eligible and small farmers. In this regard, it is not the specific case in the surcharge proceedings or before the Tribunal or this Court that particular loans do not qualify to be waived by the Government, and nothing is there on record to conclude so.

**15.** It must be noted that the petitioner, who was in the cadre of Assistant Secretary, was made in charge as the Secretary from the year 2013. There is nothing on record that in those years, any direction was issued by any superior, including the President or a higher official, to recover the loans. Nothing is on record that any audit objection was raised or that the inspecting authority made any note questioning the steps not being taken for recovery. There is no allegation of collusion with the borrowers. There is no allegation of personal benefit of any amount. Thus, even in respect of the other loans where the limitation expired before the circular, in the facts of this case, no wilfulness is either pleaded or proved. It is indeed a sad state of



affairs that these amounts are not provided as subsidies but as loans. Co-operative loans are routinely waived to such an extent that, at the time of borrowing, farmers are under the impression that they need not repay and that the loans will be waived at some future date. Any person thinking of repaying the loan is branded as a fool, and the others even prevent him from paying. Thus, in the process of cultivating crops, dishonesty is being cultivated in the minds of the farmers. This has become a norm, and it is this flawed policy that affects the Co-operative Societies. It is time these amounts are openly termed as 'subsidies'. The policy requires re-examination.

**16.** In view thereof, since wilfulness on the part of the petitioner is not been specifically proved, I have no other option except to hold that even in respect of those loans which expired prior to the year 2017, there is no ground to hold that the negligence was of such nature as delineated by the Hon'ble Division Bench so as to mulct the liability under Section 87 of the Tamil Nadu Co-operative Societies Act.

**17.** Accordingly, finding merit in the Civil Revision Petition stands allowed. The order of the tribunal passed in C.C.M.A.No.1 of 2021 and the order passed in surcharge proceedings dated 02/01/2020 shall stand set aside. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

**02-01-2026**

Neutral Citation: Yes  
bsm



To,

1.The Deputy Registrar,

Co-operative Societies, Periyar Street, Chidambaram, Cuddalore District

2.The President,

E2326, Keezhbuvanagiri Primary Agricultural

Co-operative Credit Society Ltd.,

No.95, Main Road, Keezhbuvanagiri,

Bhuvanagiri Post and Taluk,

Cuddalore District.



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**D.BHARATHA CHAKRAVARTHY, J.**  
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**CRP(NPD) No. 2070 of 2024**

**02-01-2026**