

**(2013) 02 MAD CK 0039**  
**In the Madras High Court**  
**Case No : C.R.P. NPD. (MD) . No. 256 of 2013**

Deputy Registrar of Co-operatives

APPELLANT

Vs

R. Krishnamoorthy

RESPONDENT

**Date of Decision :** 08-02-2013

**Acts Referred:**

Tamil Nadu Co-operative Societies Act, 1983 — Section 152, 87

**Citation :** (2013) 2 LW 872 : (2013) 4 MLJ 352

**Hon'ble Judges :** D. Hariparanthaman, J

**Bench :** Single Bench

**Advocate :** R. Velmurugan, G.A, for the Appellant;

**Final Decision :** Dismissed

## Judgement

D. Hariparanthaman, J.—The respondent was employed as a Manager in Tamil Nadu State Transport Corporation Employees Co-

operative Stores from 01.01.1983 onwards. While so, the revision petitioner herein initiated a surcharge proceeding against the respondent and

other employees of the Store u/s 87 of the Tamil Nadu Co-operative Societies Act. According to the revision petitioner, when the Co-operative

Store was audited during 1996-1997, it was found that there was a shortage in the provisional store area and textile area and the shortage is worth

about Rs. 1,60,013.10. The revision petitioner has fastened the liability on the respondent for a sum of Rs. 13,996.70/- by the proceedings dated

26.04.2006, u/s 87 of the Tamil Nadu Co-operative Societies Act. The same was questioned before the Co-operative Tribunal (Principal District

Judge, Thanjavur) by way of appeal in C.M.A. No. 37 of 2006 u/s 152 of the Tamil Nadu Co-operative Societies Act, by the respondent. The

learned Principal District Judge, Thanjavur allowed the appeal on 23.06.2011.

This Revision petition is against the order dated 23.06.2011 in Appeal No. 37 of 2006.

2. Heard the learned Government Advocate appearing for the petitioner.

3. The learned Government Advocate has vehemently contended that the respondent committed negligence and thereby caused a loss of Rs.

1,60,013.10. The liability was apportioned and the respondent is liable to pay a sum of Rs. 13,996.70. Therefore, there was no infirmity in the

order of the petitioner dated 26.04.2006, issued in surcharge proceedings u/s 87 of the Tamil Nadu Co-operative Societies Act.

4. I have considered the submissions made by the learned Government Advocate and I have also perused the judgment and typed set of papers produced by the petitioner.

5. Section 87 of the Tamil Nadu Co-operative Societies Act, makes it clear that for issuing surcharge proceedings, there should be a definite

finding that the loss was caused due to wilful negligence of the concerned employee. I have perused the surcharge proceedings enclosed in the

typed set of papers. Nowhere it is stated that it was due to his wilful negligence, the loss was caused. Just because he was the Manager, he cannot

simply be fastened with the liability for the shortage caused by the employees, who are employed under him.

6. At this juncture, it is relevant to extract the following passage from the judgment of the learned Principal District Judge, Thanjavur.

From the aforesaid exhibits, the Appellate Court has come to the conclusion that the employees alone are responsible for shortage, if any.

7. Another significant fact is that a criminal case was initiated for causing financial loss and the same ended in acquittal as far as the respondent is

concerned. In the criminal case, the other employees were also acquitted, while two persons viz., the Store Assistant Mr. Chellaperumal and the

Salesman Mr. Azhagiyanambi were convicted.

8. The Appellate Court has found that the respondent did not involve in the handling of the stock. The Appellate Court also found that it was not

the case that the respondent was the beneficiary in the financial loss. The following passage in page 11 of the order of the Appellate Court is

extracted in this regard.

In the aforesaid passage, the Appellate Court has also found that nowhere, the respondent was said to have committed wilful negligence leading to the loss to the Society.

For all the aforesaid reasons, I do not find any infirmity in the order dated 23.06.2011 in C.M.A. No. 37 of 2006 passed by the learned Principal

District Judge, Thanjavur and the revision petition fails and the same is dismissed. No costs.