
(2014) 07 MAD CK 0258
In the Madras High Court
Case No : W.P. (MD) No. 10921 of 2010

The Deputy Registrar

APPELLANT

Vs

K. Ramasamy

RESPONDENT

Date of Decision : 21-07-2014

Acts Referred:

Tamil Nadu Co-operative Societies Act, 1983 — Section 81, 87

Citation : (2014) 07 MAD CK 0258

Hon'ble Judges : S. Nagamuthu, J

Bench : Single Bench

Judgement

S. Nagamuthu, J.—The Deputy Registrar of Cooperative Societies, Pudukkottai, has come up with this writ petition challenging the order of the Cooperative Tribunal cum the Principal District Judge, Pudukkottai, in C.M.A.(C.S.) No. 5 of 2000.

2.The facts of the case would be as follows;

(a) The first respondent herein was the President of MM379 Kavinadu Melavattam Primary Agricultural Cooperative Bank Limited, which is a cooperative society governed by the Tamil Nadu Cooperative Societies Act (hereinafter referred to as "the Act"). His tenure of office was between 31.10.1996 to 29.12.1999. The respondents 2 to 6 were the members of the Board of Directors. The respondents 7 to 9 were the employees of the society.

(b) The petitioner herein suo motu initiated a proceeding under Section 87 of the Act against these respondents alleging that they had committed loss to the above stated society to the tune of Rs. 1,37,685/-. All the respondents participated in the said proceedings. Finally, by his proceedings in Na.Ka. No. 2405/2000-Sa.Pa., dated 31.08.2000, the petitioner herein passed award against the respondents. Challenging the same, the respondents have filed the above stated Civil Miscellaneous Appeal before the Co-operative Tribunal, which was allowed.

3. I have heard the learned counsel for the petitioner and the learned counsel appearing for the respondents 1 to 4 & 7 to 9. The respondents 5 & 6 have not appeared, despite service of notice. I have also perused the records carefully.

4. A perusal of the award of the Tribunal would go to show that the order was set aside on two grounds. The first ground is that the enquiry under Section 81 of the Act was not completed within the time prescribed in Sub Section 4 of Section 81 of the Act. The second ground is that the proceeding initiated under Section 87 of the Act was not completed within the time prescribed in the second proviso to Section 87 of the Act.

5. In my considered opinion, both the grounds are not at all available and the conclusion arrived at by the Tribunal treating these two provisos as mandatory is not correct. In *S.V.K.Sahasramam Vs. Deputy Registrar of Co-operative Societies, Tiruvannamalai*, reported in 2008 (8) MLJ 231, a Division Bench of this Court has held that the time limit prescribed in Sub Section 4 of Section 81 of the Act is not mandatory and the same is only directory. The Division Bench has further held that simply because the enquiry under Section 81 of the Act was not completed within the time prescribed under Sub Section 4 of Section 81 of the Act, the award cannot be stated to be non est. Therefore, the first ground upon which the award has been interfered with by the Tribunal needs to be set aside.

6. Secondly, coming to the second proviso to Section 87 of the Act, it has been held by this Court in *H. Rajasekar Vs. The Deputy Registrar of Cooperative Societies, Krishnagiri Circle, Krishnagiri District, K. Somasundaram, Smt. Shanti and The Special Officer, S. 1945, Madagondapalli primary Agricultural Co-operative Bank Ltd.*, that this is only directory and it is not mandatory. Of course, the first proviso to Section 87 of the Act is mandatory but not the second proviso.

7. In such view of the matter, the order of the Tribunal requires to be set aside. Since the tribunal has not considered the other points, I am inclined to remand the matter back to the Tribunal.

8. Yet another fact I want to state is that unfortunately, in this case, in the appeal filed before the Tribunal, the Cooperative Society in whose favour the award was passed was not added as a party. I do not understand as to how the Tribunal has entertained the appeal, when the party in whose favour the award, which is equivalent to a Civil Court decree, was passed, has not been added as a party. Therefore, the Tribunal shall suo motu implead the society as a party and afford opportunity to the society as well as to the appellants therein and then, to pass final order, in accordance with law.

9. In the result, this writ petition is allowed. The impugned order of the Cooperative Tribunal is set aside and the matter is remanded back to the Cooperative Tribunal for fresh disposal in accordance with law. It is further directed that the Tribunal shall implead the Secretary of the MM379 Kavinadu Melavattam Primary Agricultural Cooperative Bank Limited, as a party to the

appeal and afford opportunity to the society as well as to the appellants and then to pass final orders, on merits, within a period of six months from the date of receipt of a copy of this order. No costs.