



W.P.(MD)No.5462 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.10.2023

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.5462 of 2021

R.Vijayakumar

... Petitioner

Vs.

1.The Sub Registrar of Co-operative Societies,
Ramanathapuram District.

2.The Branch Manager,
Ramanathapuram District Central
Co-operative Bank Ltd.,
Kamuthi,
Ramanathapuram District.

...Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, restraining the second respondent from conducting auction in respect of the petitioner's Loan Account Nos. 709360027 and 709383908 and consequently directing the second respondent to release the petitioner's jewels on the payment of the jewel loan due by considering the petitioner's representation dated 01.03.2021.

For Petitioner : Mr.P.Edinbrough

For R1 : Mr.A.K.Manikkam

Special Government Pleader

For R2 : Mr.D.Shanmugaraja Sethupathy

ORDER

This writ petition has been filed for the issue of writ of mandamus

<https://www.mhcopia.org/> restraining the second respondent from conducting any auction and for a further



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direction to the second respondent to release the jewels belonging to the petitioner by considering the representation of the petitioner dated 01.03.2021.

2.The learned counsel appearing on behalf of the second respondent, on instructions, submitted that there were serious charges against the petitioner for misappropriation and hence, enquiry under Section 81 of the Tamil Nadu Co-operative Society Act (hereinafter referred to as 'Act' for the sake of brevity) was initiated. Based on the report given by the Enquiry Officer, surcharge proceedings were also initiated against the petitioner. Parallely, criminal proceedings were also initiated against the petitioner and the same is pending.

3.The learned counsel for the petitioner submitted that in a similar case in W.P.(MD)No.18990 of 2018, this Court had allowed the writ petition and directed the Society to hand over the jewels.

4.The learned counsel for the second respondent submitted that that was a case, where the enquiry under Section 81 of the Act was pending and at that point of time, the jewel that was given as security for the loan, was retained.

5.This Court carefully considered the order passed in W.P.(MD)No.

<https://www.mhc.tn.gov.in/judis> 18990 of 2018. That was a case, where the liability of the petitioner was not



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determined and enquiry under Section 81 of the Act was pending. Therefore, in that case, this Court came to the conclusion that there is no reason to exercise any lien over the pledged jewels.

6.The facts of that case will not apply to the facts of the present case. In the instant case, the liability of the petitioner has already been determined and surcharge proceedings have also been initiated and parellelly criminal proceedings have also been initiated. Therefore, the order passed in the above writ petition will not come to the aid of the petitioner in this writ petition.

7.In light of the above discussion, the relief sought for by the writ petitioner in the present writ petition cannot be granted by this Court. Accordingly, this Writ Petition is dismissed. No costs.

13.10.2023

NCC : Yes / No
Index : Yes/No
Internet : Yes/No
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Ramanathapuram District.
- 2.The Branch Manager,
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Ramanathapuram District.



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N.ANAND VENKATESH, J.

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