



W.P(MD)No.13531 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.13531 of 2016
and
WMP (MD) No.10098 of 2016

M.Balasubramanian

... Petitioner(s)

VS.

1. The Deputy Registrar,
Cooperative Societies,
Cheranmahadvei,
Tirunelveli District.

2. The President,
O-1942, Sivanthipuram Primary Agri Cooperative
Credit Society,
Adaiyakarunkulam,
Vickiramasingapuram,
Ambasamudram Taluk,
Tirunelveli District.

... Respondent(s)



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PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Ne.Ma.No.3/2016-17 dated 19.07.2016 on the file of the 1st respondent and quash the same as illegal.

For Petitioner	: Mr. M.Jegadeesh Pandian
For R1	: Mr.R.Ramasamy, Counsel for State
For R2	: Mr.R.Ponkarthikeyan

ORDER

Challenging the impugned dated 19.07.2016, passed by the first respondent, the present writ petition has been filed by the petitioner.

2. The case of the petitioner is that he along with Ayyappan, purchased the property in Survey No.130/1B, to an extent of 3 acres and 93 cents, situated at Manarkoil Village, Ambasamudram Taluk, Tirunelveli District, from one Athithan and Arasakumar under a registered sale deed dated 21.11.2001, for valid sale consideration. Thereafter, the petitioner and Ayyappan have been enjoying the property without any encumbrance. While so, to the shock and surprise of the petitioner, he came to know through a newspaper publication dated

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WEB COMP 22.07.2016 that the above property had been attached by the Deputy Registrar of Cooperative Societies, Cheranmahadevi, in Surcharge Proceedings dated 19.07.2016 under Section 167 of the Tamil Nadu Cooperative Societies Act, 1983. When the petitioner contacted his co-owner, he came to know that Ayyappan was a Secretary of the Primary Agricultural Cooperative Society and that there was an alleged misappropriation to the tune of Rs.30,10,800/-. Consequently, the first respondent initiated surcharge proceedings under Section 87 of the Tamil Nadu Cooperative Societies Act and in order to prevent alienation of the property, passed an order of interim attachment under Section 167 of the Act. Challenging the same, the present writ petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner has nothing to do with Ayyappan or his employment. The petitioner is neither a member nor an office bearer of the Cooperative Society. He is a complete stranger to the Cooperative Society. The petitioner and Ayyappan jointly purchased the property for valuable consideration. Therefore, the first respondent cannot attach the petitioner's undivided share in the property. At the most, the



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attachment can continue only in respect of Ayyappan's share. Accordingly, this Court may clarify the order of interim attachment and pass appropriate orders.

4. On the other hand, the learned counsel appearing for the respondents fairly submitted that the petitioner's undivided share in the subject property cannot be subjected to attachment and that this Court may clarify that the order of attachment shall be confined only to the undivided share of Ayyappan.

5. This Court has considered the submissions made on either side and perused the materials available on record.

6. Admittedly, the property in question was purchased jointly by the petitioner and Ayyappan under a registered sale deed dated 21.11.2001, much prior to the initiation of the surcharge proceedings. It is also not in dispute that the petitioner is neither an employee nor an office bearer of the Cooperative Society and that no allegation has been made against him regarding the alleged misappropriation. The surcharge proceedings have been initiated exclusively against Ayyappan. Though the first respondent is empowered under Section 167

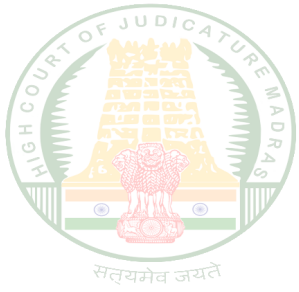


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of the Tamil Nadu Cooperative Societies Act, 1983, to order interim attachment of the properties of the delinquent officer for securing the amount likely to be recovered in the surcharge proceedings, such power cannot be extended to attach the independent property rights of a third party who has no connection whatsoever with the alleged misconduct. In the case of a jointly owned property, each co-owner possesses an independent and identifiable undivided interest. Therefore, the attachment can operate only against the share of the delinquent co-owner and cannot affect the undivided share belonging to the petitioner, who is a *bona fide* purchaser and against whom no proceedings have been initiated.

7. In view of the above, this Court finds considerable force in the submissions made on behalf of the petitioner. The impugned order of interim attachment cannot be construed as extending to the petitioner's undivided share in the property. Accordingly, it is clarified that the order of interim attachment dated 19.07.2016 shall remain operative only insofar as the undivided share of Ayyappan in the subject property is concerned and shall not affect the petitioner's undivided share or his lawful rights therein.



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8. For the foregoing reasons, the impugned order dated 19.07.2016 is set aside insofar as it relates to the petitioner's undivided share in the subject property. To the above extent, the writ petition stands allowed. No costs. Consequently, the connected miscellaneous petition is closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
PKN

To

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M.DHANDAPANI,J.

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**ORDER MADE IN
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