



W.P.(MD)Nos.28074, 15994 of 2024, 7400, 10709 of 2023 & 20063 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 01.04.2026

CORAM

THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.(MD)Nos.28074, 15994 of 2024, 7400, 10709 of 2023 &
20063 of 2021

and

W.M.P.(MD)Nos.23822, 23823, 13905, 13907 of 2024, 6924, 6925,
9435, 23243 of 2023, 16768 & 16769 of 2021

W.P.(MD)No.28074 of 2024

Ester Bai Evanjalín Prema

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
- 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi District.
- 3.The Managing Director
Thoothukudi District Central Co-operative Bank,
Thoothukudi.
- 4.The Management
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi District.



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5.The Cooperative Sub-Registrar / Sales Officer,
D.C.26, Kurumbur Primary Agricultural Co-operative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi.

6.Koilraj *

* (R6 is impleaded vide Court order dated 12.12.2024
passed in WMP(MD).No.25418/2024.) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records pertaining to the impugned notice in No. Nil dated 06.11.2024 issued by the 5th respondent and quash the same as illegal.

For Petitioner : Mr.Arul Vadivel Sekar
Senior Counsel
for M/s.Arul Vadivel Associates

For Respondents : Mr.Veerakathiravan,
Additional Advocate General
assisted by Mr.D.Sadiq Raja—for R1 to R3 & R5
Additional Government Pleader
Mr.D.Shanmugaraja Sethupathy – for R4

W.P.(MD)No.15994 of 2024

Ester Bai Evanjaline Prema

... Petitioner

Vs.



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- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
 - 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi District.
 - 3.The Managing Director
Thoothukudi District Central Co-operative Bank,
Thoothukudi.
 - 4.The Management
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi District.
 - 5.The Cooperative Sub-Registrar,
Field Officer – (Alwar Thirunagari / Sales Officer),
Kurumbur Primary Agricultural Co-operative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi.
- ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari calling for the records pertaining to the impugned order in Ni.ma.No.1/2022-2023 dated 27.06.2024 passed by the 5th respondent and quash the same as illegal.

For Petitioner	: Mr.Arul Vadivel Sekar Senior Counsel for M/s.Arul Vadivel Associates
For Respondents	: Mr.Veerakathiravan, Additional Advocate General



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assisted by Mr.D.Sadiq Raja—for R1 to R3, R5

Additional Government Pleader

Mr.D.Shanmugaraja Sethupathy – for R4

W.P.(MD)No.7400 of 2023

Ester Bai Evanjalin Prema

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
 - 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi District.
 - 3.The Managing Director
Thoothukudi District Central Co-operative Bank,
Thoothukudi.
 - 4.The Management/Secretary
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi District.
 - 5.M.Singeswara Raja *
- * (R5 is impleaded vide Court order dated 02.04.2025
passed in WMP(MD).No.20379/2023.) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the impugned



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notification under “Form No.6”, passed by the 2nd respondent, under proceeding No.Nil, dated 15.03.2023, as far as attaching the petitioner's absolute property are concerned and to quash the same as illegal.

For Petitioner : Mr.S.Krishnakumar

For Respondents : Mr.Veerakathiravan,

Additional Advocate General

assisted by Mr.D.Sadiq Raja—for R1, R2 & R4

Additional Government Pleader

Mr.D.Shanmugaraja Sethupathy – for R3

W.P.(MD)No.10709 of 2023

Ester Bai Evanjalín Prema

... Petitioner

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
- 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi District.
- 3.The Managing Director
Thoothukudi District Central Co-operative Bank,
Thoothukudi.
- 4.The Management
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi District.



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5.The Cooperative Sub-Registrar,
Field Officer – (Alwar Thirunagari / Sales Officer),
Kurumbur Primary Agricultural Co-operative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi.

6.M.Singeswara Raja *

* (R6 is impleaded vide Court order dated 02.04.2025
passed in WMP(MD).No.19327/2023.) ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the impugned order passed by the 5th respondent, under proceeding No.Nil, dated 10.04.2023 and its consequential Auction Notification under Ni.ma.No.1/2022-2023, dated 13.04.2023 under “Form No.8”, passed by the 5th respondent and to quash the same as illegal.

For Petitioner : Mr.S.Krishnakumar

For Respondents : Mr.Veerakathiravan,

Additional Advocate General

assisted by Mr.D.Sadiq Raja—for R1, R2, R4 & R5

Additional Government Pleader

Mr.D.Shanmugaraja Sethupathy – for R3

W.P.(MD)No.20063 of 2021

Ester Bai Evanjaline Prema

... Petitioner



W.P(MD)Nos.28074, 15994 of 2024, 7400, 10709 of 2023 & 20063 of 2021

Vs.

- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
- 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
Thoothukudi District.
- 3.The Managing Director
Thoothukudi District Central Co-operative Bank,
Thoothukudi.
- 4.The Management
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the impugned order passed by the 2nd respondent, under CEP.No.1/2021-2022 and ARC.No. 61/2021-2022, dated 06.10.2021, as far as attaching the petitioner's absolute property for the baseless allegation upon the petitioner's husband and to quash the same as illegal.

For Petitioner : Mr.K.R.Laxman

For Respondents : Mr.Veerakathiravan,
Additional Advocate General



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assisted by Mr.D.Sadiq Raja—for R1 to R3

Additional Government Pleader

Mr.D.Shanmugaraja Sethupathy – for R4

COMMON ORDER

Since the issues involved in all these writ petitions are interconnected, they are taken up together, heard, and disposed of by this common order.

2. In all these writ petitions, the petitioners challenge the orders passed under Section 167 of the Tamil Nadu Co-operative Societies Act, 1983, the consequential auction notices, and the orders passed under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988. By the impugned proceedings, the properties standing in the name of the petitioner have been provisionally attached and brought to sale through public auction.

3. The petitioner's husband, while serving as Secretary of the Kurumbur Primary Agricultural Co-operative Credit Society, along with



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two others, was issued a notice calling upon him to show cause as to why surcharge proceedings should not be initiated against him for alleged misappropriation of a sum of Rs.2,03,92,700/-. The surcharge proceedings culminated in the passing of an award, whereby the petitioner's husband, along with the other delinquents, was held liable to repay the said amount along with interest.

4. In order to recover the said amount, the impugned order under Section 167 of the Act, 1983 was passed, whereby two properties belonging to the petitioner were provisionally attached. The description of the said immovable properties is as follows:

□திரு.ஜா.தேவராஜ் என்பவரின் மனைவி ஈஸ்டர் பாய் என்பவருக்கு சொந்தமான அசையா சொத்து ஜாபிதா விபரம்

தூத்துக்குடி மாவட்டம், திருச்செந்தூர் வட்டம், வீரபாண்டியபட்டினம் கிராமம், பட்டா எண்.314.

சர்வே எண்.272/1B “(விஸ்தீரணம் 0.03.50)
272/1B22 (விஸ்தீரணம் 0.01.50) மற்றும் 272/1B23
(விஸ்தீரணம் 0.01.50) குடியிருப்பு வகை மொத்த
விஸ்தீரணம் 0.6.50, மொத்த செண்ட். 16.05.

சுதந்திரமணி கிரய நிலத்துக்கு- கிழக்கு
கீழ்மேல் பொதுபாதைக்கு- தெற்கு



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திருச்செந்தூர் தூத்துக்குடி தென்வடல் மெயின்

ரோட்டுக்கு - மேற்கு

இதன் அயிட்ட நிலத்துக்கு □ வடக்கு.□

5. The immovable properties bearing Survey Nos. 272/1B, 272/1B22 and 272/1B23, measuring an extent of 16.05 cents, are stated to include a residential house constructed in a portion thereof. It is not in dispute that the aforesaid properties were purchased by the petitioner under registered sale deeds dated 21.07.2000 and 18.04.2012 respectively, and the same stand in the name of the petitioner in the revenue records. The impugned order of provisional attachment under Section 167 of the Act was addressed to the petitioner's husband and two others. Subsequently, sale notices were issued for bringing the said properties to public auction for recovery of the amount due from the petitioner's husband.

6. The petitioner challenges the impugned proceedings primarily on the ground that the liability arises out of acts attributable to her husband and that she cannot be held jointly or severally liable for the same. It is further contended that there is no provision under Section 167



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of the Act enabling provisional attachment of immovable properties belonging to a person who is not a party to the reference under Section 87 of the Act.

7. The learned counsel for the petitioner further contended that the petitioner had filed objections under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, opposing the sale of the subject properties. However, the said claim petition was rejected without assigning any reasons and without conducting a proper enquiry. It is therefore contended that the impugned proceedings lack statutory authority and are liable to be quashed for want of jurisdiction. In support of his submissions, reliance was placed on the following decisions:

1. S.R.Rathinam v. The Deputy Registrar of Co-operative Societies [2016 SCC OnLine Mad 9775]
2. Lathis Mary v. Deputy Registrar of Co-operative Societies [W.P. (MD) No. 2687 of 2022, dated 26.06.2024]

8. Per contra, Mr. Veerakathiravan, learned Additional Advocate General appearing for respondents 1 to 3, and Mr. D.



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Shanmugaraja Sethupathy, learned counsel appearing for the fourth respondent in W.P. (MD) No. 28074 of 2024, submitted that the house property was constructed out of the misappropriated funds and, therefore, the impugned proceedings are justified. It was further contended that against the order rejecting the petitioner's claim petition under Rule 135 of the Rules, an efficacious alternative remedy of appeal is available under Section 152 of the Act. It was also submitted that the order passed under Section 167 of the Act is appealable, and hence, the writ petitions are not maintainable.

9. The submissions made on either side and the materials placed on record have been carefully considered.

10. It is not in dispute that the properties in question were purchased by the petitioner through registered sale deeds in the years 2000 and 2012 and stand in her name in the revenue records. The surcharge proceedings were initiated against the petitioner's husband and two others for alleged misappropriation of funds of the Society during the period from 2016 onwards, culminating in an award in the year 2018.



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The Society contends that the residential building constructed on the said properties was out of the misappropriated funds and, therefore, seeks to proceed against the said properties.

11. Section 167 of the Tamil Nadu Co-operative Societies Act, 1983 deals with furnishing of security and attachment of property. The provision empowers the authority to direct a person, who is a party to the reference under Section 87 of the Act, to furnish security and, in default, to attach the property.

12. A plain reading of Section 167 of the Act makes it clear that there is no provision enabling action against a third party or directing a third party to furnish security. The provision can be invoked only against a person who is a party to the reference under Section 87 of the Act. In the present case, no award has been passed against the petitioner; the award is only against her husband and others. Therefore, the petitioner cannot be held jointly or severally liable for the said dues.

13. The petitioner has also produced a No Due Certificate



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issued by the Indian Overseas Bank, evidencing that she had availed a housing loan on 20.12.2001 for a sum of Rs.6,00,000/- and that the loan account was closed on 14.06.2006. This clearly establishes that the house was constructed much prior to the period during which the alleged misappropriation occurred, i.e., from 2016 onwards. Significantly, the impugned order of attachment does not contain any cogent material to substantiate the allegation that the property was acquired or the house constructed out of misappropriated funds.

14. In the absence of any cogent evidence to establish that the property was acquired out of misappropriated funds, the impugned order of provisional attachment under Section 167 of the Act lacks statutory authority. In similar circumstances, the Coordinate Bench of this Court in S.R.Rathinam (supra) held that the Act and the Rules do not contemplate attachment of properties belonging to third parties.

15. The said decision was affirmed by the Division Bench of this Court in W.A. (MD) No. 1511 of 2018, by order dated 11.12.2018, wherein it was held that the Society cannot presume that every property



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standing in the name of the spouse of a delinquent is purchased out of misappropriated funds. In the absence of any statutory presumption or fiction, proceedings cannot be initiated against properties of third parties. However, liberty was reserved to proceed against such properties, if it is established in accordance with law that the same were acquired out of misappropriated funds.

16. In the present case, the claim petition filed by the petitioner under Rule 135 of the Rules has been rejected without conducting any enquiry and without affording an opportunity of hearing. The order merely directs the petitioner to approach the jurisdictional civil Court. Such an order is arbitrary, violative of the principles of natural justice, and unsustainable in law.

17. In view of the above discussion, this Court is of the considered opinion that, in the absence of any statutory provision or evidence enabling the respondents to proceed against the properties of a third party, the impugned orders are unsustainable.



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18. Accordingly, the writ petitions are allowed and the impugned orders are quashed. However, liberty is reserved to the respondents to initiate appropriate proceedings in accordance with law, if they are able to establish that the properties in question were acquired out of the funds misappropriated by the delinquent. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

01.04.2026

Index : Yes / No
NCC : Yes / No

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To

- 1.The Joint Registrar of Co-operative Societies,
Thoothukudi,
Thoothukudi District.
- 2.The Deputy Registrar of Co-operative Societies,
Thiruchendur,
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- 5.The Cooperative Sub-Registrar / Sales Officer,
D.C.26, Kurumbur Primary Agricultural Co-operative Credit Society,
Kurumbur, Eral Taluk,
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HEMANT CHANDANGOUDAR, J.

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