

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2015

CORAM:

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.30216 of 2015
and
M.P.Nos.1 and 2 of 2015

J.George

...Petitioner

vs.

1. The Deputy Registrar of
Co.Operative Societies
(Full Additional Charge),
Udhagamandalam Circle,
Udhagamandalam - 643001.
2. Kothagiri Co.Operative Primary
Agricultural & Rural Development Bank
rep. by its Managing Director,
Kothagiri,
The Nilgiri's District.
3. The Enquiry Officer/
Co-Operative Sub Registrar (PDS),
Kothagiri,
The Nilgiri's District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent relating to his Demand Notices (Form No.6) in CEP No.4/2014 in Surcharge Proceedings No.4/2014 dated 02.07.2015 and the consequent sale proceedings of the first respondent in Form Nos.8 & 9 dated 04.08.2015 fixing the sale of properties bearing old No.18/58, No.8/89, Kairbetta Old Hatty (Kil Hatty) Kothagiri Post, Nilgiri's District 643217 in R.S.No.919, Kothagiri Town Panchayat and to quash the said notices.

For petitioner : Mr.Jagadeesan
for M/s.M.N.Balakrishnan

For respondents : Mr.L.P.Shanmuga Sundaram,
Special Government Pleader

ORDER

The petitioner was the Ex-Secretary of the second respondent Co-operative Bank. For misappropriation committed by the petitioner, surcharge proceedings have been initiated and based on the surcharge proceedings, the petitioner's liability was fixed at Rs.31,50,000/-. The petitioner contends that he had already paid a sum of Rs.31,54,928/- and later on, a sum of Rs.3,50,000/- was also paid by the petitioner. Without taking into account the sum of Rs.3,50,000/- which was paid later, the petitioner's property has been brought for auction today at 11.00 a.m., against the liability of the petitioner to the tune of Rs.7,23,046/-. The said auction is being challenged.

2. Heard Mr.Jagadeesan, learned counsel appearing for the petitioner and Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader appearing for the respondents.

3. This Court, during hearing of the matter, asked the learned Special Government Pleader, Mr.L.P.Shanmuga Sundaram, to verify with the respondents as to whether auction was concluded. On instruction and also by producing a fax message sent by Co-operative Sug-Registrar/Sale Officer, Udhagamandalam, the learned Special Government Pleader would submit that by 11.00 a.m., the auction was concluded as already scheduled and since no other bidders except the decree holder participated in the auction, the property under public auction has been set off against the decree amount.

4. In view of that, taking note of the participation of the petitioner who is the only bidder and the amount already paid was set off against the liability of the petitioner, this Court only directs the petitioner to give a fresh representation giving details of the amounts which he had already paid against the liability. Consequently, the respondent concerned is directed to verify the payments made against the liability, conduct enquiry and pass appropriate orders within a period of four weeks from the date of receipt of the representation. In case, if any amount is due and payable by the petitioner, the respondent is directed to give at least six months' time to pay the amount in instalments.

5. With the above observation, the Writ Petition is disposed of. No costs. The connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

asvm

To

1. The Deputy Registrar of Co.Operative Societies
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Udhagamandalam - 643001.
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rep. by its Managing Director,
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3. The Enquiry Officer/
Co-Operative Sub Registrar (PDS),
Kothagiri,
The Nilgiri's District.

1 CC to Mr.L.P.Shanmuga Sundaram, Advocate SR.No. 52245

1 CC to M/s.M.N.Balakrishnan, Advocate SR.No. 52321

1 CC to the Government Pleader, SR.No. 52444

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SVI (CO)

PSI (07.10.2015)