

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2015

CORAM:

THE HON'BLE MR. JUSTICE R. MAHADEVAN

W.P.Nos.30755 to 30757 of 2015
and M.P.Nos.1 & 2 of 2015

Loganayaki

W.P.No.30755/15]

Veerasamy

Muniyammal

[Petitioner in

[Petitioner in W.P.No.30756/15]

[Petitioner in W.P.No.30757/15]

Vs

- 1 The Joint Registrar of Co-op.
Societies Villupuram Region Villupuram
Villupuram District.
- 2 The Deputy Registrar of Co-op.
Societies/ District Registrar
Tindivanam Circle Tindivanam
Villupuram District.
- 3 The Sale Officer/Co-op
Sub Registrar/Field Officer
Marakkanam
O/o. Deputy Registrar of Co-op. Societies
Tindivanam Circle Tindivanam
Villupuram District.
- 4 The President
Brammadesam Primary Agricultural Co-op.
Credit Society
Brammadesam Village & Post
Marakkanam Taluk Villupuram District.

[Respondents]

Writ Petitions filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for the entire records

relating to the impugned notice issued by the 2nd respondent in Tha.Va.No. 617,615 and 614/2004-2005 Ni.Vae.Ma.No. 355,353 and 352/2004-2005 respectively dated 27.08.2015 in Form No.8 and 9 and quash the same.

For petitioners : Mr.C.Prakasam
For respondents : Mr.L.P.Shanmugam Sundaram,
SGP (co-op)

COMMON ORDER

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

2. These writ petitions have been filed challenging the impugned notices issued by the 2nd respondent in Tha.Va.No. 617,615 and 614/2004-2005 Ni.Vae.Ma.No. 355, 353 and 352/2004-2005 respectively dated 27.08.2015 in Form Nos.8 and 9.

3. The petitioners are the members of the 4th respondent Society. In that Society, an Ex-Secretary one Sagadevan and higher officials who are incharge of sanctioning the loan, colluded with each other and misappropriated a sum of Rs.3.69 crores in the 4th respondent Society Funds during the period 1998 to 2004. It is the contention of the petitioners that the said officials forged the petitioner's signatures as if they applied for crop loan, however, the petitioners never applied for any such crop loan before the 4th respondent Society. It is the further contention of the petitioners that the said officials prepared bogus loan applications and sanctioned the loan in the name of the petitioners without their knowledge, consent and signatures and misappropriated the the same. When the enquiry officer was appointed under Section 81 of the Tamil Nadu Co-operative Societies Act, the petitioners have clearly stated before the Enquiry Officer about the forgery committed by the said officials. However, the names of the petitioners have been included in the surcharge proceedings initiated under Section 87 of the Act and the liability was fixed to the tune of Rs.72,339/- Rs.1.35 lakhs and Rs.90,000/- respectively. Hence, the petitioners moved the District Court, Villupuram by filing CMA, which were dismissed by the said Court. Thereafter, the petitioners approached this Court along with other similarly placed persons against the orders passed under Section 87 by filing W.P.No.25767 of 2009, which was dismissed by order dated 24.07.2014, against which, according to the learned counsel for the petitioner, writ appeal has been filed which is in SR stage. In the meanwhile, auctioning the properties of the petitioners were advertised and accordingly proceeded with by the

impugned notices. Aggrieved over the same, the petitioners are before this Court.

4. The 4th respondent has filed a counter affidavit denying all the allegations made by the petitioners. Based on the counter affidavit, the learned Special Government Pleader submitted that the writ petitions are not maintainable in view of the categorical finding given by this Court in W.P.No.25767 of 2009 and hence they are liable to be dismissed. He would further submit that there is no impediment for the auction to go on as scheduled.

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

6. Since the subject matter of these writ petitions has already been decided by this Court, which ended in dismissal of the writ petition filed in W.P.No.25767 of 2009, this Court cannot interfere at this stage. It is always open to the petitioners to approach the Hon'ble Division Bench for appropriate orders, since it is stated that a writ appeal has been filed before this Court. As rightly stated by the learned Special Government Pleader, the auction as scheduled can go on. However, confirmation of the same shall be made only after a period of 30 days. It is needless to mention that in the meanwhile it is open to the petitioners to seek appropriate remedy before the Hon'ble Division Bench.

The writ petitions are disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

-Sd/-

Assistant Registrar(cs-III)

//True copy//

Sub Assistant Registrar

To

- 1 The Joint Registrar of Co-op.
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Villupuram District.
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Credit Society
Brammadesam Village & Post
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+1 cc to Mr.L.P.Shanmugasundaram, Advocate (sr.54292)
+3 cc to Mr.C.Prakasam, Advocate (sr.54357 to 54359)
+1 cc to Government Pleader (sr.54415)

AD(co)
cp 09/10/2015

W.P.Nos.30755 to 30757 of 2015



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