

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.10.2015

Coram:

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Petition No.32796 of 2015
and MP.No.1 to 3 of 2015

KPS.Ginning
rep by its Partner
S.Murugan
Kannandheri Post,
Sankari Taluk,
Salem District.

.. Petitioner

vs.

1.M/s.Tiruchengode Agricultural
producers cooperative
Marketing Society Ltd., (S.351)
Rep by its General Manager
Post Box No.26
Tiruchengode Circle
Namakkal District.

2.The Deputy Registrar of Cooperative Societies
Tiruchengode Circle
Tiruchengode, Namakkal District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records relating to the impugned proceedings of the second respondent in CEP No.05/2015-2016 dated 24.08.2015 and to quash the conditional attachment of the properties described in the schedule appended to the order of conditional attachment forthwith.

For Petitioner : Mr.N.A.Ravindran
For Respondents : Mr.L.P.Shanmugha Sundaram, Spl.GP

O R D E R

The petitioner who is purchasing cotton bags for ginning from the first respondent/society from 2007 onwards. Due to poor demand for cotton and the bumper crop of cotton, the first respondent had to clear the cotton stocks and sold the cotton bales to the petitioner firm on credit basis by granting time for repayment. Labour unrest and cheap yarn imports resulted in poor demand for the cotton bales, thereby the petitioner was unable to repay the amount to the first respondent/society for the cotton bags purchased from the first respondent, which resulted in initiating proceedings against the petitioner by first respondent/society by attaching its seven items. The said order is being challenged before this Court.

2. Heard, Mr.N.A.Ravindran, learned counsel appearing for the petitioner and Mr.L.P.Shanmuga Sundaram, learned Additional Government Pleader appearing for the respondents.

3. According to the learned counsel for the petitioner, 4849 cotton bags are lying in the godown of the first respondent and the value of the said cotton is Rs.1,32,74,680/-. The amount due to the first respondent/society can be adjusted from the value of the cotton bags which is lying in the godown of the first respondent/society.

4. Mr.Shanmuga Sundaram, learned Additional Government Pleader would contend that the value of the cotton is Rs.85,96,380/- and the total amount due to the first respondent/society from the petitioner is Rs.1,61,04,945/-. Even if the value of the cotton bags is adjusted a sum of Rs.75,08,565/- is due from the petitioner.

5. It is agreed by the learned counsel for the petitioner as well as the learned counsel for the respondents that the cotton bags which are lying in the custody of the first respondent/society shall be auctioned by way of open tender. Apart from that the petitioner is also directed to pay a sum of Rs.25,00,000/- within a period of six weeks from the date of receipt of copy of this order.

6. In this regard, the petitioner undertakes to deposit the sum of Rs.25,00,000/-. If the amount which is obtained from the auction of the cotton bags is less than the amount due to the first respondent/society, the balance amount shall be collected from the petitioner. If any further amount is due to the respondent/society, the first respondent is directed to give due notice to the petitioner and proceed in accordance with law. Till the auction is conducted and payment of Rs.25,00,000/- by the petitioner, the order of attachment shall be in force.

7. In the result, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are is closed.

sd/-
ASSISTANT REGISTRAR(CO)

/ TRUE COPY /

SUB-ASSISTANT REGISTRAR

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To

1. M/s.Tiruchengode Agricultural
producers cooperative
Marketing Society Ltd., (S.351)
Rep by its General Manager
Post Box No.26
Tiruchengode Circle
Namakkal District.

2.The Deputy Registrar of Cooperative Societies
Tiruchengode Circle
Tiruchengode, Namakkal District.

+1 CC to Mr. L.P.Shanmugasundaram Advocate. SR.NO. 57357



सत्यमेव जयते

W.P.No.32796 of 2015

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CO-
JD 16/10/2015