

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 28.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.11411 of 2016

and

W.M.P.No.9861 of 2016

A.Boopal

... Petitioner

Versus

1.The Deputy Registrar of Coop. Societies /  
District Registrar,  
Tindivanam Circle, Tindivanam,  
Villupuram District.

2.The President,  
CL. SPL.154, Brammadesam Primary Agricultural  
Co-op. Credit Society, Brammadesam & Post,  
Tindivanam Taluk,  
Villupuram District. ... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings C.E.P.No.69/2008-2009, dated 23.02.2016 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmughasundaram  
Special Government Pleader

O R D E R

Heard Mr.C.Prakasam, learned counsel appearing for the petitioner and Mr.L.P.Shanmughasundaram, learned Special Government Pleader appearing for the respondents, accepting notice on behalf of respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up

for final disposal.

2. The petitioner has filed this Writ Petition, challenging the auction notice issued by the respondent dated 23.02.2016 bringing for auction certain properties stated to be the properties owned by the petitioner's wife purchased and given to her by her mother. However, at this juncture, this contention cannot be gone into, since this is the second time, the petitioner has come forward with similar plea by filing the writ petition against the auction notice. Earlier writ petition was W.P.No.28698 of 2015, challenging the auction notice dated 07.09.2015, the said writ petition was heard along with two other connected matters and following the earlier orders they were disposed of. The operative portion reads as follows:-

"3. In the light of the above, the direction issued by this Court, while disposing of the writ petitions sufficiently safeguards the interest of the petitioners. In fact, this Court is inclined to grant 60 days time for confirmation during which period, it is always open to the petitioners to seek appropriate remedy before the Hon'ble Division Bench.

4. Thus, following the orders passed in the above referred writ petitions, these Writ Petitions are disposed of, by a direction that the auction scheduled to be conducted shall proceed. However, the confirmation shall not be made for a period of 60 days from the date of auction and within such time, it is always open to the petitioners to work out their remedies in the manner known to law."

3. It is submitted that validity of the surcharge proceedings is being tested and is pending before the Hon'ble Division Bench in W.A.No.337 of 2016 and stated to be fixed for final hearing on 30.03.2016 and the same day auction is proposed to be conducted pursuant to the impugned notice.

4. In the light of the fact that the petitioner was not successful in setting aside the earlier auction notice dated 07.09.2015, once again the petitioner cannot raise the same contentions. The necessity to issue the impugned notice for the second time is on account of fact that the earlier writ petition in W.P.No.28698 of 2015 was entertained, there was an order of interim stay. Therefore, necessarily after the disposal of earlier writ petition by order dated 07.01.2016, after waiting for the period of 60 days as mentioned in the said order, the first respondent issued the impugned the auction notice. Hence, there can be no error in the manner which the first respondent has proceeded with the matter.

For the above reasons, the challenge to the impugned notice has to necessarily fail. Accordingly, the writ petition is dismissed and the first respondent is permitted to go ahead with the auction but the confirmation of the auction shall abide by the result in W.A.No.337 of 2016. Before the commencement of auction, the first respondent shall inform all the intending bidders about this order passed in this writ petition and also the fact that W.A.No.337 of 2016 is pending, which has been filed by the petitioner herein. No costs. Consequently, connected miscellaneous petition is closed.

-s/d-  
Assistant Registrar

True Copy

Sub-Assistant Registrar

vs/kpr

To

- 1.The Deputy Registrar of Coop. Societies /  
District Registrar,  
Tindivanam Circle, Tindivanam,  
Villupuram District.
- 2.The President,  
CL. SPL.154, Brammadesam Primary Agricultural  
Co-op. Credit Society, Brammadesam & Post,  
Tindivanam Taluk,  
Villupuram District.

+1 cc to Government Pleader sr.19157  
+1 cc to Mr.L.P.Shanmugasundaram Advocate sr.19065

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