

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:25.07.2016

CORAM

The Honourable MR. JUSTICE N.KIRUBAKARAN

W.P.No.17912 of 2016
and WMP No.15608 of 2016

M.Rajendran

[Petitioner]

Vs

- 1 The Assistant Director of
Handlooms and Textiles
Handlooms and
Textiles Department
No.77/A1 North Mada Street
Second Floor Tiruchengode-11.
- 2 The Sales Officer
Handlooms and Textiles Department
Tiruchengode Range
Namakkal District.
- 3 The Special Officer
No.163 N.P.Nachimuthu
Powerloom Weavers
Co- operative Society
Vennandur
Tiruchengode.
- 4 Tmt.Shanthi

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records in relation to the proceedings issued by the 2nd respondent in Daily Thanthi dated 25.03.2016 of Salem issue and quash the same and issue a consequential direction to the 1st and 2nd respondents to withdraw the notice as the 3rd respondent is not having any right title over the property owned by the petitioner.

For Petitioner : Mr.K.Shahul Hameed

For Respondents: Mr.L.P.Shanmugasundaram, SGP
(R1-3)

ORDER

The writ petition has been filed challenging the proceedings of the 2nd respondent issued in Daily Thanthi dated 25.03.2016 of Salem issue and for a consequential direction to the 1st and 2nd respondents to withdraw the notice, as the 3rd respondent is not having any right title over the property owned by the petitioner.

2. Mr.L.P.Shanmugasundaram, learned Special Government Pleader Counsel takes notice for the respondents 1 to 3.

3.1 The petitioner is the owner of the property measuring about 290 sq.mtr. Or 3121 sq.ft. comprised in Survey No.40/2B of Athanur Village, West Street, Ward No.10. The said property was originally purchased by his father Muthusamy Mudaliar, by virtue of a sale deed dated 26.08.1967. The patta No.673 was also standing in the name of his father Muthusamy Mudaliar. The petitioner's father died intestate on 26.04.2006, leaving behind the petitioner, his elder brother Subramani as his legal heirs. As one of the legal heirs, the petitioner is entitled to half share and therefore, through release deed dated 19.11.2015, his brother Subramani also settled the property in his favour. Therefore, the petitioner has become the absolute owner of the said property.

3.2 When that being the case, by notification dated 25.03.2016 published in Daily Thanthi, it has been advertised that for the loss caused by Shanthi, wife of the petitioner's brother, who acted as if the president of the 3rd respondent, the property was attached by virtue of proceedings dated 23.02.2016. Claiming right over the property as the absolute owner, after giving a representation, the petitioner has challenged the said notice dated 25.03.2016 issued by the 2nd respondent in this writ petition.

5. Heard the learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader for respondents 1 to 3.

6. The learned Special Government Pleader would submit that there is an alternative remedy available to the petitioner under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, for making claims and objections.

7. Since the petitioner contends that she is the absolute owner of the property in question, the petitioner is directed to make a claim petition under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such a claim petition, the 2nd respondent is directed to enquire into the matter and after giving an

opportunity to both the petitioner as well as the 4th respondent, pass appropriate orders, on merits and in accordance with law, within a period of four weeks thereafter. It is made clear that till such time, the property of the petitioner should not be auctioned. The writ petition is disposed of accordingly. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(V)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Assistant Director of
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Tiruchengode Range Namakkal District.
- 3 The Special Officer
No.163 N.P.Nachimuthu Powerloom Weavers
Co- operative Society Vennandur Tiruchengode.

+1cc to Mr.L.P. Shanmugasundaram, Advocate, S.R.No.42094
+1cc to Mr.K. Shahul, Advocate, S.R.No.42036

सत्यमेव जयते

W.P.No.17912 of 2016

PA(CO)
EU 10.08.16

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