

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2016

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.3449 of 2016

and

WMP No.2819 of 2016

1. R.Ravichandran

2. R.Thamizharasi

... PETITIONERS

Vs

1. The Deputy Registrar of Cooperative Societies
S.S.Dhandapani Nagar,
Semmandalam
Cuddalore-607 001.

2. The General Manager
Cuddalore District Central Cooperative Bank Limited
Cuddalore -607 001.

3. The Sale Officer
Cuddalore District Central Cooperative Bank Limited
Cuddalore, Beach Road,
Cuddalore- 607 001.

... RESPONDENTS

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records and quash the proceedings of the 1st respondent in CEP No.50/2015 - 2016 dated 9.12.2015.

For Petitioners : Mr.D.Baskar

For Respondents : Mr.Bala Ramesh
Additional Government Pleader

O R D E R

With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.D.Baskar, learned Counsel appearing for the petitioners and Mr.Bala Ramesh, learned Additional Government Pleader accepting notice for the respondents.

3. The petitioners are husband and wife and the first petitioner was the employee of the third respondent Society, against whom surcharge proceedings have been initiated and an Award has been passed pursuant to the provisions under section 16 of the Tamil Nadu Co-operative Societies Act, 1983. This is being challenged by the petitioners by contending that the property attached does not belong to the first petitioner.

4. It is seen that the notice enables the party to furnish security, so as to satisfy the decree/order that may be passed against the first petitioner, failing which immovable property specified in the schedule to the notice would be conditionally attached under section 167 of the Act. Thus, the impugned notice is in effect akin to a notice issued by the Civil Court in the Petition where a prayer is made for an order of attachment before Judgment. Therefore, the first petitioner could very well raise an objection stating as to why he need not furnish security as demanded in the notice. However, without resorting to such a procedure, the petitioners have challenged the same before this Court by way of this Writ Petition.

5. There is nothing on record to show as to what happened after 15.12.2015, since the first petitioner was granted time to furnish security upto 15.12.2015. If already attachment has been effected on account of non furnishing of security, then the petitioners have to challenge the subsequent proceedings before the appropriate forum. However, in the event, the first respondent is yet to take a decision in the matter pursuant to the impugned notice, liberty is granted to the first petitioner to file his objections in writing, within a period of ten days from the date of receipt of a copy of this order and on receipt of the same, the first respondent shall pass a reasoned order after considering the representation.

6. As observed earlier, if already attachments were effected, petitioners are at liberty to challenge the same before the appropriate forum. It is made clear that in the event the property has not been attached and the petitioners exercise the option given by this Court in this order by submitting a representation, till orders are passed, the first respondent should not alienate or encumber the property in question.

The Writ Petition is disposed of accordingly. No costs.
Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

rpa

To

1. The Deputy Registrar of Cooperative Societies
S.S.Dhandapani Nagar,
Semmandalam
Cuddalore-607 001.
2. The General Manager
Cuddalore District Central Cooperative Bank Limited
Cuddalore -607 001.
3. The Sale Officer
Cuddalore District Central Cooperative Bank Limited
Cuddalore, Beach Road,
Cuddalore- 607 001.

+1cc to Mr.P.Gururaj, Advocate, S.R.No.6563
+1cc to the Government Pleader, S.R.No.6548

W.P.No.3449 of 2016

VSN(CO)
CA(09/02/2016)

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