

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No. 8605 of 2016

and

W.M.P.Nos.7655 and 7656 of 2016

K.Natarajan

...Petitioner

Vs.

1. The Joint Registrar of Co-operative Societies,
Villupuram Region, Villupuram,
Villupuram District.
2. The Deputy Registrar of Cooperative Societies,
District Registrar,
Tindivanam Circle, Tindivanam,
Villupuram District.
3. The President,
Brammadesam Primary Agricultural
Cooperative Credit Society,
Brammadeam Village and Post,
Marakkanam Taluk,
Villupuram District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for entire records, relating to the impugned notice issued by the second respondent in E.P.No.89/2008-09, dated 08.02.2016, form Nos8 and 9, and to quash the same.

For Petitioner : Mr.C.Prakasam

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

O R D E R

Heard the learned counsel counsel for the petitioner, and Mr.L.P.Shanmughasundaram, the learned Special Government Pleader (for Cooperative Society), who accepts notice on behalf of respondents.

2. The petitioner is aggrieved by the impugned proceedings, which is a notice issued under Rule 126 of the Tamil Nadu Cooperative Societies Rules, 1988, bringing the properties mentioned in the schedule therein for sale on 17.03.2016. This sale is on account of the fact that surcharge order has been passed against the petitioner; and the Appeal filed by the petitioner against the said surcharge order before the Cooperative Tribunal was dismissed; and the Writ Petition preferred against the judgment of the Cooperative Tribunal was also dismissed, against which, the petitioner has filed Writ Appeal before the Hon'ble Division Bench along with an application to condone the delay; and the delay having been condoned on payment of costs, is stated to have directed to be listed on 17.03.2016 before the Hon'ble Division Bench for hearing.

3. In the light of the above, the respondent-Society is fully justified in bringing the properties for sale, for recovery of the dues. The petitioner's apprehension is that, in the event, if he succeeds in the Writ Appeal, then, his rights would be prejudiced, and third party right will accrue.

4. In the light of the fact that, as on date, the order passed in the surcharge proceeding has not been either stayed/modified/varied, the respondent-Society is entitled to recover the dues, and the impugned proceedings is one such steps for recovering the dues. Therefore, the respondents cannot be enjoined from proceeding with the auction sale, however, since it is stated that the matter is to be heard by the Hon'ble Division Bench on 17.03.2016, the respondents are directed to proceed with the impugned proceedings, so to say, bring the properties for sale, but the confirming of the sale shall be done only after 30 days from today.

5. With the above observations, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

sd

To

1. The Joint Registrar of Co-operative Societies,
Villupuram Region, Villupuram,
Villupuram District.
 2. The Deputy Registrar of Cooperative Societies,
District Registrar,
Tindivanam Circle, Tindivanam,
Villupuram District.
 3. The President,
Brammadesam Primary Agricultural
Cooperative Credit Society,
Brammadeam Village and Post,
Marakkanam Taluk,
Villupuram District.
- 1 cc to Mr.C.Prakasam, Advocate Sr 15118 (15/3/16)
 - + 1 cc to Mr.L.P.Shanmughasundaram, Advocate Sr 14731 (14/6/16)

CNR (CO)
kk 8/3

Writ Petition No. 8605 of 2016

सत्यमेव जयते

WEB COPY