

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.04.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P. No.8403 of 2017 &

W.M.P.Nos.9197 & 9198 of 2017

P.Thukka Ram

... Petitioner

Vs

1.V.L.S.P.L-49

Kavanur Primary Agriculture Co-operative
Loan Society Limited,
Kavanur Post,
Arakkonam Taluk,
Vellore District.

2.The Sale Officer/Co-operative Field Officer-Arakkonam
Office of the Deputy Registrar of Co-operative Societies,
Ranipet,
Vellore District.

3.The Deputy Registrar of Co-operative Societies,
Ranipet,
Vellore District. ... Respondents

PRAYER: This petition is filed under Article 226 of the
Constitution of India to issue a writ of Certiorari calling for
the records of the respondents in relation to the impugned
Auction notice published in the Tamil Daily, "Dinamalar" dated
05.04.2017 vide CEP No.728/2008-2009 and quash the same as
illegal and invalid.

For Petitioner : Mr.T.S.Baskaran
For Respondents : Mr.L.P.Shanmugasundaram,
Spl. Govt. Pleader

O R D E R

The writ petition has been filed seeking for issuance of
writ of Certiorari calling for the records of the respondents in
relation to the impugned Auction Notice published in the Tamil
Daily, "Dinamalar" dated 05.04.2017 vide CEP No.728/2008-2009
and quash the same as illegal and invalid.

2.Learned counsel for the petitioner would submit that the petitioner's father viz., K.S.Perumal Reddy, was the absolute owner of the property in Survey Nos.435/11, 435/17, 435/12 to an extent of 2 acres, situated at Kilpakkam Madura, Kanniyavedu Village, Arakkonam Taluk. He would further submit that the petitioner's father died on 09.05.2011 intestate leaving behind the following persons as his legalheirs :

S.No.	Name	Relationship	Age
1	P.Mani	Son	65
2	K.Kantha	Daughter	63
3	P.Chinnaraj	Son	61
4	S.Senthamarai	Daughter	59
5	P.Ravi	Son	54
6	B.Gowri	Daughter	51
7	P.Thukka Ram	Son	43

The above said property devolved upon the above said legal heirs of late K.S.Perumal Reddy. The petitioner and all other legal heirs of K.S.Perumal Reddy are joint owners of the said properties. Though the properties are joint properties, the petitioner is in possession and enjoyment of the subject land as he is residing in the said village. While that being the position, the first respondent is bringing the property for public auction to be held on 10.04.2017. The petitioner has not received any notice before conducting the said auction. When the petitioner came to know the Public Notice effected on 05.04.2017 in Tamil Daily "Dinamalar", immediately thereafter, the petitioner made his objections by way of issuing legal notice dated 06.04.2017 to respondents 1 and 2. In the said notice, it is stated that the first item of the property mentioned in the auction notice is not an absolute property of P.Chinnaraj and the respondents have no right to bring the said property for public auction for recovering the alleged dues. He would further submit that the impugned Auction Notice issued by the first respondent, is in total violation of principles of natural justice. Hence, the present writ petition.

3.It is also represented by the learned counsel for the petitioner that the petitioner filed a claim petition under Rule 135 (2) of Tamil Nadu Co-operative Societies Rules to the first respondent and the said claim petition was refused as send by post.

4.Learned Special Government Pleader appearing for the respondents would submit that the said claim petition is not in proper format and it has to be submitted to the second

respondent, who is the competent authority under Rule 135(2) of the Tamil Nadu Co-operative Societies Rules.

5. In the light of the submissions made by both parties and from the materials available on record, it is seen that the auction notice has been issued by the first respondent without providing any opportunity to the petitioner.

6. As contended by the learned Special Government Pleader, the claim petition was submitted by the petitioner to respondents 1 and 3, who are not the competent authorities to decide the issue under Rule 135(2) of Tamil Nadu Co-operative Societies Rules. Therefore, it is open to the petitioner to make his objections or claim petition before the second respondent and the second respondent would consider the same in accordance with law.

7. In view of the above facts and circumstances, by ends of justice, I am inclined to pass the following order:

(i) the petitioner is directed to submit a claim petition or objections if any, to the second respondent, within a period of one week from today. If the said claim petition or objections are received from the petitioner, the second respondent is directed to consider and dispose of the same, on merits and in accordance with law, as expeditiously as possible.

(ii) Till the orders are passed in the claim petition under Rule 135(2) of the Tamil Nadu Co-operative Societies Rules, the auction proceedings shall stand deferred.

8. With the above direction, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.V.L.S.P.L-49

Kavanur Primary Agriculture Co-operative
Loan Society Limited,
Kavanur Post,
Arakkonam Taluk,
Vellore District.

2.The Sale Officer/Co-operative Field Officer-Arakkonam
Office of the Deputy Registrar of Co-operative Societies,
Ranipet,
Vellore District.

3.The Deputy Registrar of Co-operative Societies,
Ranipet, Vellore District.

+2cc to Mr.T.S.Baskaran, Advocate, S.R.No.21149
+1cc to Mr.L.P. Shanmugasundaram, Advocate, S.R.No.21705
+1cc to the Government Pleader, S.R.No.21720

nrjk(CO)
md(11/04/2017)

W.P. No.8403 OF 20017 &
W.M.P.Nos.9197 & 9198 of 2017



WEB COPY