

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 23.08.2017
CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 11131 of 2015
and
M.P Nos.1/2015 and WMP No.3852/2017

A. Mohan
Petitioner

..

Vs.

1. The Registrar of
Co-operative Societies,
Kilpauk, Chennai.
 2. The Deputy Registrar of
Co-operative Societies,
Krishnagiri.
 3. The Special Officer,
The Uthangarai Agricultural
Producers Co-operative
Marketing Society Ltd.,
No.DD-9, Uthangarai,
Krishnagiri District.
 4. The Deputy Registrar of
Co-operative Societies,
Field Officer/ Sale Officer
Tirupur Division (Incharge)
- .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the entire records relating to the proceedings of the 2nd respondent in Form 6 dated 02.09.2014 and quash the same and pass any such order.

For Petitioner : Mr. R. Ravichandran
For Respondents : Mr. V. Selvaraj

Additional Government

Pleader

Mr. M.S. Palanisamy for R3

O R D E R

This Writ Petition has been filed challenging the demand notice issued by the 2nd respondent in Form 6 dated 02.09.2014.

2. The learned counsel for the petitioner submitted that the petitioner is running a cotton company and towards purchase of raw cotton from the farmers through the 3rd respondent Society, for a sum of Rs.71,28,512/- during 1994-1998, he had paid a sum of Rs.72,60,461/- to the 3rd respondent Society. The 3rd respondent initiated proceedings in O.S. No.1503/1998-1999 dated 02.02.2000 for recovery of a sum of Rs.3,79,993/- along with interest. According to the petitioner, he was not aware of the surcharge proceedings since no summons were served on him and an ex-parte order was passed by the 3rd respondent. On 30.03.2015, the 4th respondent served the surcharge notice under Rule 121 and 126 of the Tamil Nadu Co-operative Societies Act, 1988 directing the petitioner to pay a sum of Rs.3,79,993/-. Subsequently, the impugned notice was issued towards recovery of the said amount, failing which to bring the property of the petitioner for public auction. According to the petitioner, no notice has been served to the petitioner for enquiry under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983. Further, without following the procedures as contemplated under law, the respondents have initiated proceedings for public auction. Hence, the petitioner has filed the present writ petition seeking the aforesaid prayer.

3. The learned Additional Government Pleader would submit that the impugned notice issued by the 2nd respondent is only a demand notice. If the petitioner has any grievance he can approach the respondents, under Section 135 of the Tamil Nadu Co-operative Societies Rules, 1988 but without approaching the concerned authorities, the present writ petition is filed and therefore the same is liable to be dismissed.

4. The learned counsel appearing for the 3rd respondent would submit that the contention of the petitioner stating that the petitioner has not received the summons for the enquiry under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 is a misleading statement. The petitioner has appeared for the enquiry before the 2nd respondent and therefore the said statement of the petitioner is totally in correct and the same is denied. The petitioner is challenging

the impugned notice only on the said ground and hence the writ petition is not maintainable before this Court.

5. Considering the rival submissions made by the parties and on perusal of the impugned notice, it is found that the impugned demand sale notice has been issued to the petitioner. Therefore, this court is not inclined to entertain the prayer of the petitioner.

6. Hence, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to approach the appropriate authority, if so advised, to file his claim and objections, within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of
Co-operative Societies,
Kilpauk, Chennai.
2. The Deputy Registrar of
Co-operative Societies,
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4. The Deputy Registrar of
Co-operative Societies,
Field Officer/ Sale Officer
Tirupur Division (Incharge)

+1 cc to Mr.M.S.Palanisamy Advocate sr 61172
+1 cc to Government Pleader High Court Madras sr 61672
+1 cc to Mr.C.Veeraraghavan Advocate sr 60626

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