

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 05.04.2017
CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 32694 of 2014
and
M.P No. 2 of 2014

1. J. B. Kamalavathy
2. N. Chandran .. Petitioners

/Vs/

1. The Deputy Registrar of Cooperative Societies, Udhagamandalam Circle, Udhagamandalam The Nilgiris District.

2. The Sale Officer
O/o. The Deputy Registrar of Cooperative Societies, Coimbatore Circle Coimbatore - 641 018.

3. No. DR(L)C.4, The Coonoor Cooperative Primary Agricultural & Rural Development Bank Ltd., rep. By its Managing Director No.57, T.C.N. Complex T.D.K. Pillai Road, Coonoor -643 102 The Nilgiris District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings in C.E.P No.01/2014 (1) dated 05.02.2014 and sale proceedings passed by the 2nd respondent in his proceedings in Form Nos. 8 & 9 dated 13.11.2014 and quash the same as illegal, null and void with cost and compensation and pass further orders.

For Petitioners : Mr. R. Krishnamoorthy

For Respondents : Mrs.T.Girija,
Government Advocate
for R1 & R2

Mr. L.P.Shanmugasundaram
Spl. Government Pleader for R3

O R D E R

This Writ Petition has been filed seeking to quash the order passed by the 1st respondent in his proceedings in C.E.P No.01/2014 (1) dated 05.02.2014 and sale proceedings passed by the 2nd respondent in his proceedings in Form Nos. 8 & 9 dated 13.11.2014.

2. Learned counsel for the petitioners submitted that the 1st petitioner is the wife of the 2nd petitioner, who is an employee in the 3rd respondent Society. An award was passed under Section 87(1) of the Tamil Nadu Cooperative Societies Act, 1983, against the 2nd petitioner and another employee Mr. M.P. Sagadevan. Thereafter, the impugned notice has been issued and order of attachment have also been passed under Section 167. On 13.11.2014, the respondents have issued Sale Notice in Form No.8 & 9, against the 1st petitioner's property. The respondents have not provided any opportunity to put forth the claim of the petitioners. Therefore, the impugned order is liable to be set aside.

3. Per contra, learned counsel for the respondents would submit that the conditional attachment order was passed under Section 167 of the Tamil Nadu Cooperative Societies Act and thereafter only Form-8 notice for auctioning the property was issued by the sale officer i.e. the 2nd respondent, under Rule 126 of the Tamil Nadu Cooperative Societies Rules, 1988. According to the learned Special Government Pleader, even the sale auction notice has been issued as per the provisions of law and that there is no perversity or illegality in the order impugned herein and hence this revision petition is liable to be dismissed.

4. Heard learned counsel for the petitioner and learned counsel representing the Departments and perused the material available on record.

5. The 2nd respondent has issued the impugned notice in Form 8, under Rule 126 of the Tamil Nadu Cooperative Societies Rules 1988, for sale. I do not find any illegality in the said notice impugned herein. The petitioner has filed this Revision, without exhausting his appeal remedy before the 2nd respondent. Therefore, this Court is of the opinion that to meet the ends of justice, it would be appropriate if an opportunity is granted to the petitioners to put forth their grievance.

6. In the light of the provisions under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988, liberty is granted to the petitioners to approach the 2nd respondent to make their objections, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the same, the 2nd respondent is directed to consider the same on merits and in accordance with law, and pass orders, as expeditiously as possible.

7. The writ petition is disposed of, with the above directions. Consequently, the connected Miscellaneous Petitions are closed. No order as to costs.

-s/d-

Assistant Registrar (CSII)

True Copy

Sub-Assistant Registrar

avr

To

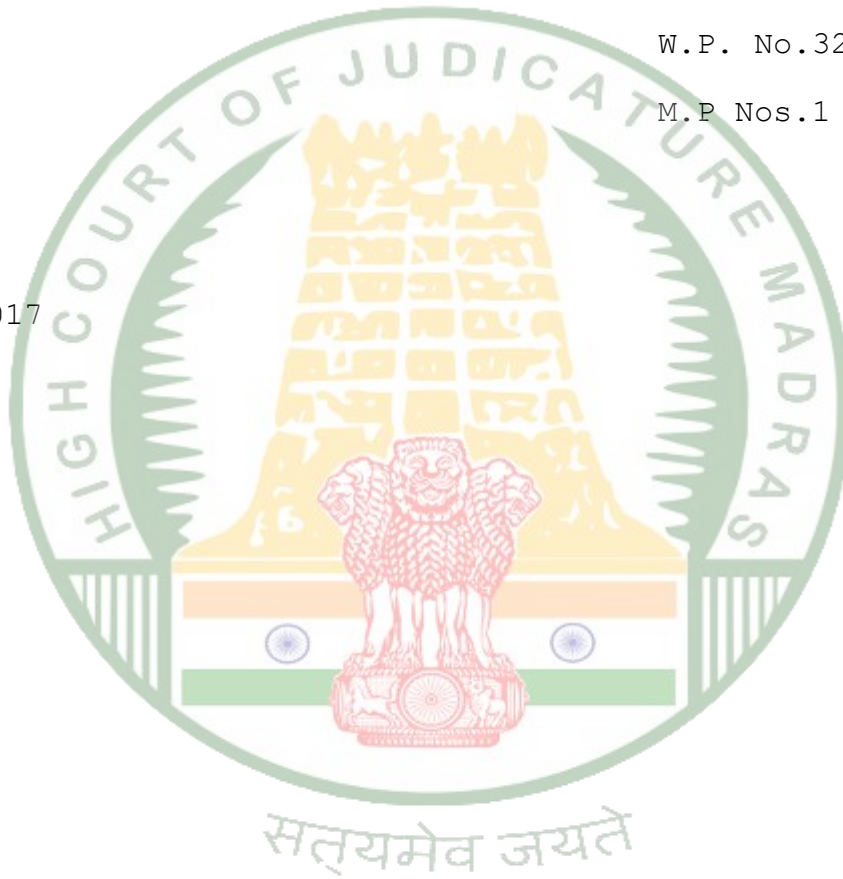
1. The Deputy Registrar of Cooperative Societies, Udhagamandalam Circle, Udhagamandalam The Nilgiris District.
2. The Sale Officer
O/o. The Deputy Registrar of Cooperative Societies,
Coimbatore Circle
Coimbatore - 641 018.

3. The Managing Director
No. DR(L)C.4, The Coonoor Cooperative
Primary Agricultural & Rural
Development Bank Ltd.,
No.57, T.C.N. Complex
T.D.K. Pillai Road, Coonoor -643 102
The Nilgiris District.

+1 cc to Mr.K.Premkumar Advocate sr 20496

W.P. No.32694 of 2014
and
M.P Nos.1 & 2 of 2014

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