

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.20617 of 2016
& WMP.Nos. 17705 & 17706 of 2016

K.Amutha

... Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies, Cheyyar Circle, Cheyyar, Thiruvannamalai District.
- 2.The Co-operative Sub Registrar/ Sale Officer, C.1245 Arni Agricultural Producers Co-operative Marketing Society Limited, Arni to Vellore Main Road, Arni, Thiruvannamalai District. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari, calling for the entire records relating to the impugned sale notice by the second respondent in Form-7, dated 13.06.2016 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondent-1 : Mr.L.P.Shanmugasundaram
Special Govt. Pleader

For Respondent-2 : Mrs.T.Girija, GA

ORDER

Writ petition has been filed challenging the notice issued by the second respondent in Form-VII, dated 13.06.2016 and quash the same.

2.The brief facts of the case are as follows:

(i) One S.Kamalanathan was working as Manager in the Arni Agricultural Producers Co-operative Marketing Society Limited and he along with other higher officials and Directors have misappropriated the assets of the Society. Hence, the second respondent initiated action under Section 81 of the Tamil Nadu Co-operative Societies Rules, 1983, and based on the interim report submitted by the enquiry officer, the Deputy Registrar, Cheyyar filed arbitration claim in ARC.125/14-15. Thereafter, the execution petition in E.P.No.2/14-15 was filed attaching the immovable properties of the petitioner's wife. The said conditional order of

attachment has been served on the petitioner on 09.09.2014 and subsequently, after the enquiry officer report recovery proceedings by way of surcharge action was initiated against S.Kamalanathan [petitioner's husband] by the society.

(ii) Based on the above said surcharge proceedings, society filed CE.P.No.2/14-15 and the Deputy Registrar, Cheyyar, issued demand notice informing the said S.Kamalanathan to remit the due Rs.29,12,426.67. The said demand notice was affixed on the residence of the petitioner. Since, the petitioner had not taken due steps to remit the amount, the Sale Officer/second respondent issued the attachment notice in Form No.VII, thereafter attached the immovable properties of the petitioner. Pursuant to the attachment order, the impugned auction notices in Form VII was issued informing that the auction will be held on 30.06.2016. the said auction notice was also published in the daily newspaper 'Dinathanthi'. Against the said auction notice, the petitioner has filed the present writ petition before this Court. It is seen from the records that at the time of admission this Court has granted an interim order and the same is still in force. Pending the writ petition now learned Special Government Pleader submitted that in view of the interim order granted by this Court no auction was conducted by the respondent society. Hence, the writ petition has now become infructuous. Further the learned Special Government Pleader submitted that the petitioner will have to make his objection under Rule 135 of the Tamil Nadu Co-operative Societies Act, 1988, if any such objection is made, certainly the respondent Society will consider the same in accordance with law.

3. Learned counsel for the petitioner would also fairly submit that the petitioner will make his objection before the Sale Officer under Rule 135 of the Tamil Nadu Co-operative Societies Rules.

4. Taking into consideration the submissions made by the learned counsel for the parties, without expressing any opinion on the grounds raised by the petitioner before this Court, liberty is granted to the petitioner to file his objection or representation as the case may be, before the Sale Officer, second respondent Society, within a period of three weeks from the date of receipt of a copy of this order.

5. Thereafter, the Sale Officer/second respondent Sub Registrar is directed to consider the claim or objection made by the petitioner on merits and in accordance with law, as expeditiously as possible preferably, within a period of four weeks from the date of receipt of a copy of this order. It is also made clear that the respondent will not proceed with the auction proceedings until the claim or objection of the petitioner is considered by the Sale Officer.

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

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Deputy Registrar of Co-operative Societies, Cheyyar Circle, Cheyyar, Thiruvannamalai District.
- 2.The Co-operative Sub Registrar/
Sale Officer, C.1245 Arni Agricultural Producers Co-operative Marketing Society Limited, Arni to Vellore Main Road, Arni, Thiruvannamalai District.

+1 cc to mr.L.P.Shanmugasundaram,advocate,sr.16326

+1 cc to Govt.Pleader,sr.16515.

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krd 19/4

W.P.No.20617 of 2016



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