

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 24240 Of 2016
and
W.M.P No.20710 of 2016

S. Malathi ... Petitioner

/Vs/

1. The Deputy Registrar of
Cooperative Societies
Nagapattinam Circle,
Nagapattinam & District.
2. The President,
Z.A 78, Venkidangal Primary Agricultural
Co-operative Credit Society,
Venkidangal, Okkur Post
Kilvelur Taluk
Nagapattinam District.
3. The Sale Officer,
Z.A 78, Venkidangal Primary Agricultural
Co-operative Credit Society,
O/o. Deputy Registrar of
Cooperative Societies
Nagapattinam Circle,
Nagapattinam & District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, forbearing the respondents from bringing the petitioner's movable and immovable property house, Door No.7 & 9, Dhamodhara Naidu Street, Vellippalayam, Nagapattinam - 611 001 for public auction and to pass further orders.

For Petitioner :M/S.C.Prakasam

For Respondents :Mr.L.P.Shanmugasundaram
Spl Government Pleader for R2 &R3
Mrs.T.Girija
Govt. Advocate for R1

O R D E R

This Writ Petition has been filed seeking to forbear the respondents, from bringing the petitioner's movable and immovable house property at Door No.7 & 9, Dhamodhara Naidu Street, Vellippalayam, Nagapattinam -611 001 for public auction.

2. Learned counsel for the petitioner submitted that the petitioner is working as a Teacher and is living with her mother and daughter since her husband does not take care of the family. According to the petitioner, her husband, who was working as a Secretary in the 2nd respondent Society, was suspended from service in the year 2006 and from that day onwards, he was away from the petitioner. Whiles, the respondents have attached the house property, standing in the name of the petitioner and without any notice or opportunity, the respondents were taking steps to bring the said property, for public auction. On enquiry, the petitioner found that the 2nd respondent has given 'Tom Tom' notice on 14.06.2016 but the property of the petitioner is not mentioned in the said notice. Moreover, there is neither any surcharge proceedings passed against the petitioner's husband nor any police case registered against him. According to the petitioner, no notice has been issued to the petitioner but the respondent society is attempting to enter into the property and therefore the present writ petition has been filed, seeking the aforesaid prayer.

3. Learned Special Government Pleader appearing for the respondents would submit that the said 'Tom Tom' notice was issued in the name of her husband, in the house address bearing Door No.7 & 9, Dhamodhara Naidu Street, Vellippalayam, Nagapattinam - 611 001, since both of them are living in the aforesaid address. Hence, the impugned order passed by the 2nd respondent, is in accordance with law and the same is not liable to be interfered.

4. Heard Mr. C. Prakasam, learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader for respondents 2 & 3 and Mrs.T.Girija, learned Government Advocate for the 1st respondent.

5. As rightly pointed out by learned counsel for the petitioner, in the impugned notice, the respondent society has not shown the schedule of properties, namely, movable and immovable properties, for attachment and for sale. Without mentioning the schedule of properties, the respondent society has served the impugned notice in the aforesaid address. Therefore, the petitioner has filed the present writ petition before this Court on the ground that without notice to the

petitioner, the respondent society has taken steps to include the petitioner's property. On perusal of the said impugned notice, it is seen that the schedule mentioned property has not been mentioned in the attachment notice or in the 'Tom Tom' impugned notice. A copy of the said notice has also been furnished to the petitioner's husband, though notice has not been addressed to the petitioner. In the counter affidavit, the 2nd respondent has narrated the fact that an award was passed against the petitioner's husband and for non-compliance of the said award, the respondent society has initiated the attachment proceedings as well as the sale proceedings. Hence it is clear that the petitioner that has not been put to notice.

6. Therefore, considering the submission made by the learned counsel for the petitioner and to meet the ends of justice, this Court is inclined to pass the following order :-

If at all the respondent society is inclined to take any auction proceedings against the petitioner, the same shall be proceeded with, in accordance with law.

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

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

avr
To

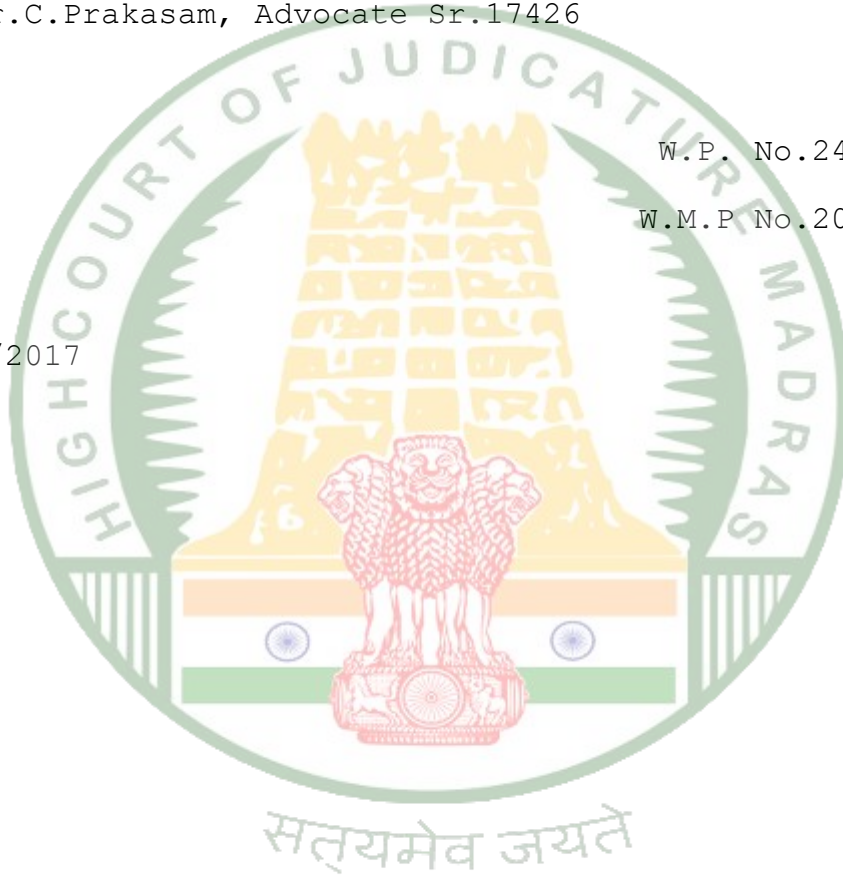
1. The Deputy Registrar of
Cooperative Societies
Nagapattinam Circle,
Nagapattinam & District.
2. The President,
Z.A 78, Venkidangal Primary Agricultural
Co-operative Credit Society,
Venkidangal, Okkur Post
Kilvelur Taluk
Nagapattinam District.

3. The Sale Officer,
Z.A 78, Venkidangal Primary Agricultural
Co-operative Credit Society,
O/o. Deputy Registrar of
Cooperative Societies
Nagapattinam Circle,
Nagapattinam & District.

+lcc to the Government Pleader Sr.17739
+lcc to Mr.L.P.Shanmugasundaram, Advocate Sr.17399
+lcc to Mr.C.Prakasam, Advocate Sr.17426

W.P. No.24240 Of 2016
and
W.M.P No.20710 of 2016

pa[col
srg 16/06/2017



WEB COPY