

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 37753 of 2003

S. Balakrishnan

..Petitioner

Vs.

1.The Deputy Registrar of
Co-operative Societies,
Tindivanam,
Villupuram District.

2 The Special Officer,
CL.Spl. 143 Melolakkur
Primary Agricultural
Co-operative Bank Ltd.,
Melolakkur, Gingee Taluk
Villupuram District.

..Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings dated 17.12.2003 issued by the first respondent in pursuant to the order made in C.E.P No.81/2003-2004 dated 29.10.2003 passed by the 1st respondent and quash the same and forbear the respondents from attaching or auctioning the properties of the petitioner more particularly described in the writ petition schedule.

For Petitioner : Mr. Dhanaram
for Mr. G. Ethirajulu

For Respondents : Mr. V. Selvaraj,
AGP for R1

Mr. M.S. Palaniswamy for R2

O R D E R

The petitioner has filed this writ petition seeking to quash the proceedings dated 17.12.2003 issued by the 1st

respondent, pursuant to the order made in C.E.P No.81/2003-2004 dated 29.10.2003 passed by the 1st respondent and forbear the respondents from attaching or auctioning his properties, more particularly described in the schedule.

2. Learned counsel for the petitioner submitted that the petitioner was an erstwhile Honorary elected President of the 2nd respondent Society. On 18.09.2003, an order of disqualification was passed against the petitioner, for the irregularities and misappropriation of funds committed by the erstwhile Secretary and others. An enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was initiated against the Secretary and others. Subsequently, the 1st respondent initiated proceedings under Section 87(1) of the Act on 27.08.2003. According to the petitioner, the enquiry was not completed within the prescribed period, as per Section 81(4) of the Act. Pending surcharge proceedings, a criminal complaint was foisted against the petitioner. The petitioner submitted his interim explanation on 17.11.2003. Even without calling upon the petitioner to furnish security, the 1st respondent issued proceedings dated 29.10.2003 attaching the immovable properties under Section 167 of the Act. According to the petitioner, the Registrar of Co-operative Societies is the competent authority to pass orders under Section 167 of the Act, but the attachment order has been passed by the 1st respondent. Challenging the same, the petitioner has filed this writ petition, stating that the said order has been passed by the 1st respondent without recording the reasons and hence entire proceedings is vitiated.

3. The learned counsel appearing for the 2nd respondent would submit that the Miscellaneous Petition in W.M.P. NO.45867 of 2003, filed before this Court to stay the impugned attachment order, has been dismissed by this Court on 08.07.2004. Further, if the petitioner is aggrieved by the said order, he can file an appeal before the competent authority, under Section 152 of the Act.

4. Heard the rival submissions and perused the material available on records.

5. Admittedly, the petitioner has not impleaded the Sale Officer as a party respondent to the proceedings and so no relief can be granted against the order dated 17.12.2003. In so far as the impugned order of attachment dated 29.10.2003 is concerned, if the petitioner is aggrieved, he has to file an appeal before the appropriate authority, if so advised.

6. The Writ Petition is disposed of, with the above observation. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

avr

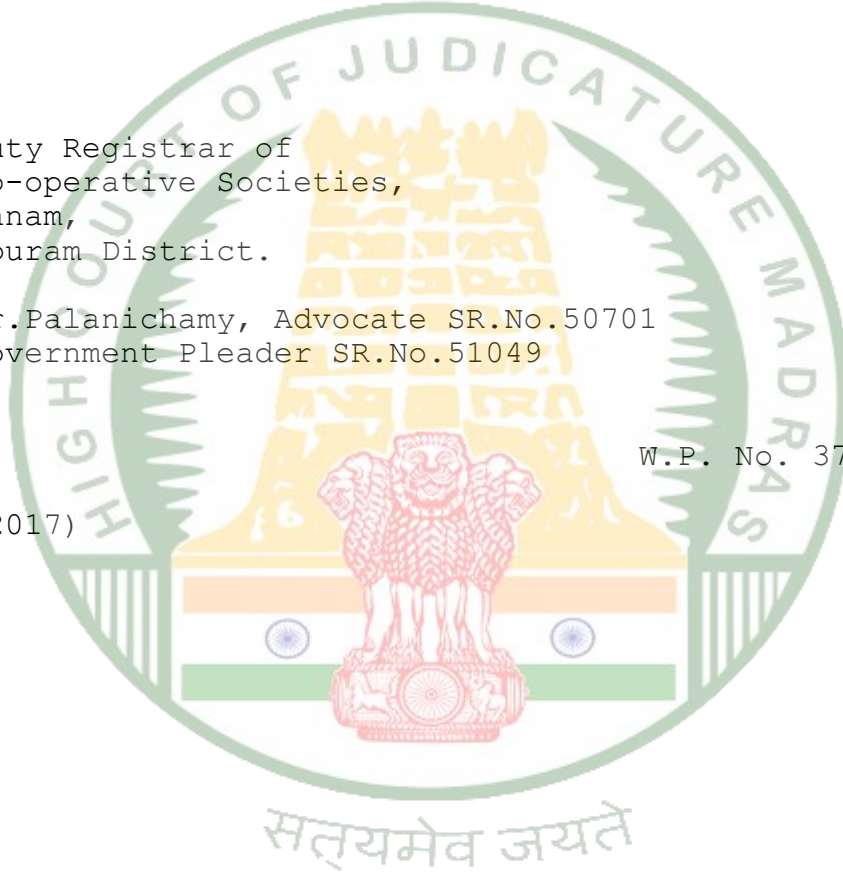
To

1.The Deputy Registrar of
Co-operative Societies,
Tindivanam,
Villupuram District.

+1cc to Mr.Palanichamy, Advocate SR.No.50701
+1cc to Government Pleader SR.No.51049

W.P. No. 37753 of 2003

GN(21/09/2017)



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