

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 23-08-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.835 of 2016

And

W.M.P.Nos.660, 8070 and 8071 of 2016

T.C.Manickam

.. Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
4th Cross, Co-operative Colony,
Krishnagiri - 635 001.

2.The Sale Officer/District Registrar,
S-495, Krishnagiri Taluk Agriculture Producers
Co-operative Marketing Society Ltd.,
Poochampalli Post and Taluk,
Krishnagiri District - 635 206.

3.The President,
S-495, Krishnagiri Taluk Agriculture Producers
Co-operative Marketing Society Ltd.,
Poochampalli Post and Taluk,
Krishnagiri District - 635 206.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the entire records on the file of the second and third respondents in proceedings E.P.28/2005-06 in ARC No.5/2000/Suba.1 dated 4.12.2015 and attachment and auction sale Notice No.8 and No.9 of immovable property issued under Rules, 1988 by the second and third respondents Sale Officer on 18.1.2016 at 3.00 P.M., and quash the same.

For Petitioner : Mr.T.Panchatsaram

For Respondents : Mr.L.P.Shanmugasundaram,
Special Government Pleader (Co-op.).

O R D E R

The auction notice dated 18.1.2016, issued by the third respondent-President of the Krishnagiri Taluk Agriculture Producers Co-operative Marketing Society, under Rule 126 of the Tamil Nadu Co-operative Society Rules, 1988, is under challenge in this writ petition.

2. The writ petitioner has challenged the ARC proceedings as well as the order passed in the execution proceedings also.

3. The writ petitioner was employed as the Branch Manager of Krishnagiri Taluk Agriculture Producers Co-operative Marketing Society, which is a registered Society, under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. On account of certain irregularities, proceedings were initiated against the writ petitioner under the provisions of the Act and surcharge proceedings were initiated under Section 87 of the Act. The writ petitioner defended the case in the ARC proceedings No.5/2000/Sa.Pa.-1, before the District Registrar of Co-operative Societies under Section 90 of the Tamil Nadu Co-operative Societies Act. Against which the ARC proceedings were concluded and based on the order passed in the ARC proceedings, the execution petition in EP No.28/2005-06 was filed by the management and an order was passed in the execution proceedings also.

4. The learned Special Government Pleader, appearing on behalf of the respondents, contends that the writ petitioner has not challenged the ARC proceedings only the execution proceedings before the competent authorities under the provisions of the Act. An appeal lies before the Co-operative Tribunal constituted under Section 152 of the Act against the order passed under Section 90 of the Act. Thus, if at all the writ petitioner has to prefer an appeal before the designated Co-operative Tribunal, challenging the order passed in the ARC proceedings. However, no such appeal was filed. Contrarily, filed CMA (CS) Nos.39, 44 to 50 of 2005, challenging the surcharge proceedings.

5. This apart, the execution order also has not been challenged before the competent authority. Contrarily, the present writ petition has been filed challenging the eviction notice issued on 18.1.2016.

6. It is brought to the notice of this Court, at the time of admitting the writ petition, that this Court passed a conditional order, directing the writ petitioner to deposit Rs.4 lakhs. The said conditional order passed by this Court also has not been complied with by the writ petitioner. Thus, the writ petitioner is not entitled for any relief, as such, sought for

in the present writ petition.

7. The auction notice was issued by the President of the Co-operative Society. The Society registered under the provisions of the Tamil Nadu Co-operative Societies Act, State within the meaning of Article 12 of the Constitution of India in view of the legal principles settled by a larger Bench of this Court in the case of K.Marappan vs. Deputy Registrar of Co-Operative Societies, Namakkal Circle, Namakkal [(2006) 4 CTC 689 (FB)]. Thus, on that ground also the writ petition is liable to be rejected on the ground of maintainability.

8. This apart, the writ petitioner has not challenged the ARC and EP proceedings in accordance with law and further, the conditional order passed by this Court at the time of granting interim stay in the present writ petition has not complied with.

9. Thus, the writ petition is devoid of merits and accordingly, it stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/--

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

Svn

+lcc to Mr.L.P.Shanmugasundaram, Advocate SR.NO.58029

+lcc to Government Pleader SR.NO.57886

sm:30.8.2018

सत्यमेव जयते

WP 835 of 2016

WEB COPY