

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2018

CORAM

THE HONOURABLE Mr.JUSTICE V.BHARATHIDASAN

W.P.No.29667 of 2017 and
W.M.P.Nos.31980 & 31981 of 2017

V.Nagaraj

... Petitioner

..Vs..

The Deputy Registrar of
Cooperative Societies,
Hosur, Kishnagiri.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, to call for the records on the file of the respondent in proceedings Na.Ka.1435/2017 Sapa dated 11.07.2017 and consequential order of conditional attachment under section 167 (2) of Tamil Nadu Cooperative Societies Act, 1983 dated 21.07.2017 is unjust, illegal and in event liable to be set aside.

For Petitioner : Mrs.R.Poornima

For Respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader.

O R D E R

This writ petition has been filed challenging the order passed under Section 167(2) of the Tamil Nadu Co-operative Societies Act, 1983 directing the petitioner to furnish a security for a sum of Rs.25,00,000/- on the ground that an enquiry under Section 87 of the Tamil Nadu Cooperative Societies Act is pending against him and pending the above proceedings, the petitioner is directed to furnish the security.

2. The learned counsel appearing for the petitioner submits that the order passed by the first respondent is totally non-est in the eye of law. Before passing any order under Section 167 (1) of the Act, the respondents should satisfy themselves that the petitioner is about to dispose of or remove from the local limits of the jurisdiction whole or any part of the property with intent to defeat or delay the execution of any decision

that may be passed on the reference or any order that may be passed against the petitioner. Now, the impugned order did not disclose that the petitioner is intend to dispose or remove the property from the local area. The respondents did not record his satisfaction as required under Section 167(1) of the Tamil Nadu Co-operative Societies Act. On that ground alone, the impugned order is liable to be set aside.

3. The learned counsel for the petitioner further submits that however without prejudice his right to challenge the proceedings under Section 167(1) of the Tamil Nadu Cooperative Societies Act, now, the petitioner is ready to deposit a sum of Rs.25,00,000/- instead of furnishing security. He has also stated that the petitioner has already paid a sum of Rs.14,20,000/- to the respondent. Now, the petitioner is also ready to deposit the balance sum of Rs.10,80,000/-.

4. In the above circumstances, the petitioner is directed to deposit the balance sum of Rs.10,80,000/- (Rupees Ten Lakhs and Eighty Thousand only) on or before 03.10.2018 before the Secretary, S 1945 Madhagondapalli Primary Agricultural Co-operative Credit Society . Since the petitioner himself is now ready and willing to deposit the entire amount, there is no necessity to attach the property.

5. In the above circumstances, this the impugned order passed by the first respondent is set aside and the respondent is directed not to attach the petitioner's property. This writ petition is allowed to the extent indicated above. No costs. Consequently, connected miscellaneous petitions are closed.

6. Post the matter on 05.10.2018 for 'reporting compliance' on 05.10.2018. The respondent is also directed to send a communication to the concerned Sub-Registrar to remove the encumbrance made in the Registrar office within a period of one week from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

mrp/mbi

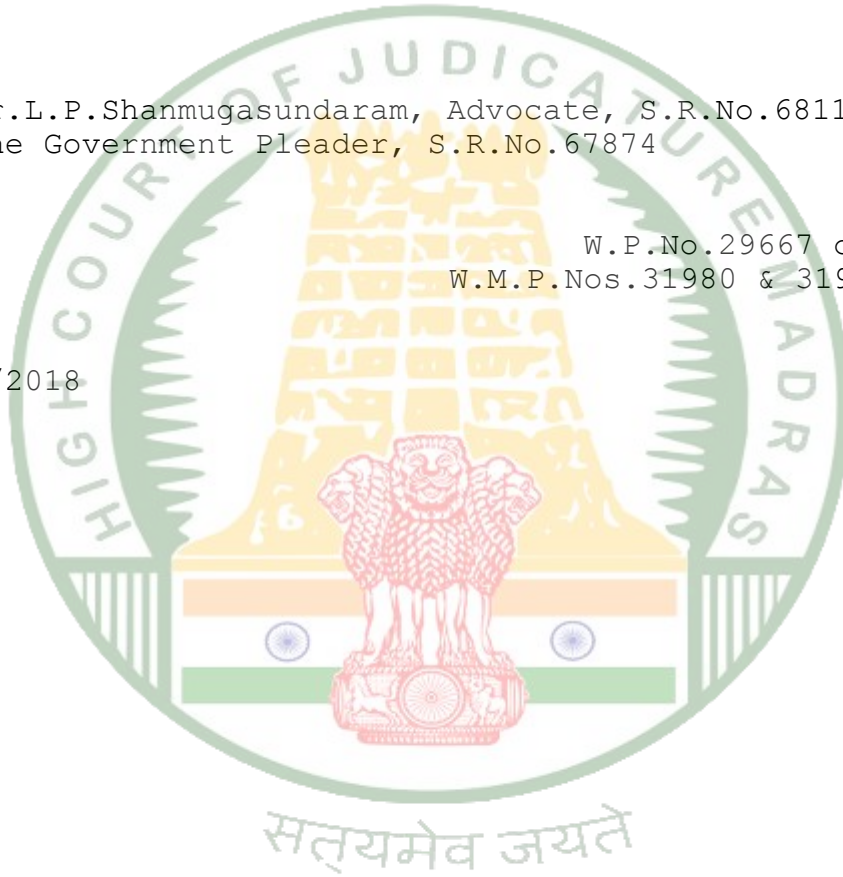
To

1. The Deputy Registrar of
Cooperative Societies,
Hosur, Kishnagiri.
2. Sub - Registrar,
Registration Office,
Denkanikottai.
3. The Section Officer,
Writ Section, High Court,
Madras.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.68115
+1cc to the Government Pleader, S.R.No.67874

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rrs 04/10/2018



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