



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.09.2018

CORAM:

THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.18754 of 2018

and

W.M.P. (MD) No.16591 of 2018

K.Gowtham

... Petitioner

vs.

1.The Deputy Registrar of Co-operative
Societies,
Palani,
Dindigul District.

2.The Sales Officer/Co-operative Sub-Registrar,
Kongalnagaram Primary Agricultural-
Cooperative Credit Society Ltd.,
O/o Deputy Registrar of Cooperative Society,
Palani, Dindigul District.

3.The President,
Kongalnagaram Primary Agricultural-
Cooperative Credit Society Ltd.,
Pethappampatti,
Udumalaipettai Taluk,
Tiruppur District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorari to call for the records pertaining to the impugned notice in Form No.8, dated 23.07.2018 and consequential notice in Form No.9 dated 23.07.2018 issued by the first respondent and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.C.M.Marichelliah Prabhu
Additional Government Pleader
for R.1
: Mrs.J.Padmavathi Devi
Special Government Pleader
for R.2 and R.3

**ORDER**

The present writ petition has been filed seeking to challenge the order passed by the first respondent on 23.07.2018 viz., the auction notice.

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2. According to the petitioner, he is no way connected with the financial irregularity committed by his father while he was working as Special Officer in the Cooperative Department. Therefore, certain proceedings were initiated against his father and ultimately in respect of the dues from his father, the auction notice has been issued and the attachment is notified in the impugned communication dated 23.07.2018.

3. When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the respondents, besides filing a detailed counter affidavit, would submit that under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, the petitioner can approach the second respondent against the attachment order.

4. Without exhausting the remedy as provided in the above said Rule, the petitioner has chosen to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The Rule as relied on by the learned Additional Government Pleader appearing for the respondents reads as under:

"135: Investigation of claims and objections to attachment of property:

(1) Where any claim is preferred to, or any objection is made to, the attachment of any property attached under these Rules on the ground that such property is not liable to such attachment, the Sale Officer shall investigate the claim or objection and dispose of it on merits."

5. From the above Rule, it is clear that in case the petitioner is aggrieved by the action of the first respondent towards attachment of his property, it is open to him to file his objections under the above said Rule. However, the petitioner has bypassed the said remedy and approached this Court directly invoking its writ jurisdiction.

6. Considering the above submission made on behalf of the respondents, this Court is of the view that a better course of remedy available for the petitioner is to approach the second respondent under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988. In such circumstances, the petitioner is directed to approach the second respondent under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988 and such application is being



made, the second respondent shall consider the same and pass appropriate orders on merits and in accordance with law.

7. The learned Counsel appearing for the petitioner would rely upon a decision of this Court rendered in W.P.(MD)No.4135 of 2009, dated 17.11.2016, wherein the learned Judge in similar circumstances has allowed the writ petition filed by the petitioner therein.

8. It is open to the petitioner to put forth all his contentions before the second respondent including the citation relied upon by the petitioner herein and the second respondent shall pass appropriate orders in this regard after taking note of both factual and legal submissions of the petitioner.

9. The petitioner is directed to submit his objections within a period of two weeks from the date of receipt of a copy of this order and thereupon, the second respondent is directed to pass orders as indicated above within a period of four weeks thereafter. In the meanwhile, till the final order is passed by the second respondent or by the competent authority, the respondents shall not take any coercive action against the petitioner.

10. With the above directions, the Writ Petition stands disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar(CS-IV)

To

1.The Deputy Registrar of Co-operative
Societies,
Palani,
Dindigul District.

2.The Sales Officer/Co-operative Sub-Registrar,
Kongalnagaram Primary Agricultural-
Cooperative Credit Society Ltd.,
O/o Deputy Registrar of Cooperative Society,
Palani, Dindigul District.



3.The President,
Kongalnagaram Primary Agricultural-
Cooperative Credit Society Ltd.,
Pethappampatti,
Udumalaipettai Taluk,
Tiruppur District.

+1 CC To MR.D.SHANMUGARAJA, Advocate SR. NO. 83244
+1 CC TO The Special Government Pleader SR.NO. 83701

W.P. (MD) No.18754 of 2018
10.09.2018

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