

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.03.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.8471 of 2019 &
W.M.P.Nos.9004 & 9007 of 2019

C.Manickam

... Petitioner

Vs.

1.The Deputy Registrar,
Co-operative Society,
Office of the Assistant Registrar,
Sudhakaran Complex, Vellore Road,
Tiruchengode,
Namakkal District - 637 211.

2.Co-operative Sub Registrar /
Inspection and Sale Officer,
Tiruchengode Circle Co-operative,
Deputy Registrar Office,
CHB Colony, Velur Road,
Tiruchengode - 637 210.
Namakkal District.

...Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for issuance of Writ of Certiorari to call for the records relating to the proceedings of the second respondent in auction sale notice dated 27.03.2019 in pursuant to the auction sale of the petitioner house in Survey No.412 / New Survey No.519/3, to an extent of 872 sq.ft, and quash the same.

For Petitioner : Mr.Murugendran

For Respondents : Mr.M.Karthikeyan
Additional Government Pleader

O R D E R

Mr.M.Karthikeyan, learned Additional Government Pleader takes notice for the respondents. By consent, this Writ Petition is taken up for final disposal.

2. The petitioner is the father of one Elango, who was working as a Secretary in first respondent-Society. His son was suspended from 30.07.2016 and facing enquiry proceedings for the allegation of misappropriation of funds of the Society. It is further stated that the second respondent, vide paper publication dated 21.02.2019, brought his property bearing Survey No.412 / New Survey No.519/3, to an extent of 872 sq.ft. situated in Tiruchengode Taluk, for auction. According to the petitioner, his father-Chinnappan was enjoying the subject land for more than 17 years allotted by the Government and after his death, he has been enjoying the property. The second respondent, without issuing any notice to the petitioner, brought the property for auction, which is illegal and without jurisdiction, and therefore, the impugned order is liable to be set aside.

3. The learned Additional Government Pleader would submit that the petitioner-C.Manickam had executed a Settlement Deed dated 11.05.1998 in Document No.1273 of 1998, in favour of his son, viz., Elango, settling the subject matter of the property. Hence, the petitioner has no locu standi to file this Writ Petition, saying that he is the owner of the subject property. It is further submitted that if the petitioner is aggrieved by the auction, he can approach the Sale Officer under Rule 135 of the Tamil Nadu Co-operative Societies Rules, by making his claim or objections and without exhausting such remedy, filing of Writ Petition before this Court is not maintainable.

4. On a perusal of affidavit, it is seen that the petitioner has not disclosed the settlement deed executed by him in favour of his son, viz., Elango and has approached this Court with incorrect facts and hence, the petitioner is not entitled for the relief sought for in the Writ Petition. However, liberty is given to the petitioner to approach the Authority concerned by invoking Rule 135 of the Tamil Nadu Cooperative Societies Rules, if so advised.

5. With the above observation, this Writ Petition is dismissed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Deputy Registrar,
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Office of the Assistant Registrar,
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Tiruchengode Circle Co-operative,
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+1cc to Mr.G.Murugendran, Advocate, S.R.No.28391

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MG (CO)

RRS (06/05/2019)



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