

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2020

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 3214 of 2020
and W.M.P. No. 3728 of 2020

S. Ramani

... Petitioner

-vs-

1. The District Registrar/Deputy Registrar of Co-operative, Office of the Co-operative Societies Deputy Registrar, Trichengode Circle, Trichengode Taluk, Namakkal District.
2. The Sub Registrar of Co-operative/Field Officer, Kabilar Malai/Sales Officer, S. 1067 Jameen Elampalli Primary Agricultural Co-operative Credit Society Limited, Jameen Elampalli (Post) 637 201, Paramathi Velur Taluk, Namakkal District.
3. The Chairman, S. 1067 Jameen Elampalli Primary Agricultural Co-operative Credit Society Limited, Jameen Elampalli (Post) 637 201, Paramathi Velur Taluk, Namakkal District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the auction notice in Form-8 and Form-9 under Rule 126(2) of the Tamil Nadu Co-operative Societies Act, 1988, dated 07.01.2020 issued by the First Respondent and quash the same, consequentially issued direction directing the First Respondent to dispose the Petitioner's objection dated 28.02.2019 as per the order passed by this Court in W.P. No. 8619 of 2019 as well as present objection dated 28.01.2020 by following Rule 135 and Section 167 (1) of the Tamil Nadu Co-operative Societies Act r/w Order 21 Rule 58 of C.P.C.

For Petitioner : Mr. R. Marudhachalamurthy

For Respondents: Mr. D. Venkatachalam,
Additional Government Pleader (Co-op)

O R D E R

Heard Mr. R. Marudhachalamurthy, Learned Counsel for the Petitioner and Mr. D. Venkatachalam, Learned Additional Government Pleader, who takes notice for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. Learned Counsel for the Petitioner submits that surcharge proceedings had been initiated against the Petitioner and aggrieved by the liability fastened on him for the same, he has filed appeal in C.M.A. No. 9 of 2019 on the file of the Principal District Court, Namakkal, which is pending. It is further stated that application in I.A. No. 2 of 2019 has been filed for interim stay of the recovery in that proceeding, but no order has been passed. In the meanwhile, the Respondents had issued auction notice dated 07.01.2020 for bringing the property for sale for recovering the amount claimed from the Petitioner in the surcharge proceedings.

3. When it is pointed out that the Petitioner could pursue his remedy in I.A. No. 2 of 2019 in the said appeal for the relief sought in the Writ Petition, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to pursue the said application and he has made an endorsement to that effect, which is recorded.

4. Since the auction has been fixed at 11.00 a.m. on 12.02.2020 (tomorrow), the Petitioner may request to take up C.M.A. No. 9 of 2019 before the Principal District Court, Namakkal, who shall after affording full opportunity of hearing to the parties, dispose the same on merits and in accordance with law, and if it is not possible to take up that appeal for final disposal immediately for any genuine reasons to be recorded in writing, it is expected that atleast the application for interim stay in I.A. No. 2 of 2019 would be taken up for consideration. In such circumstances, the Respondents shall defer any confirmation of sale in the proposed auction till orders are passed in that application.

5. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar(CCC)

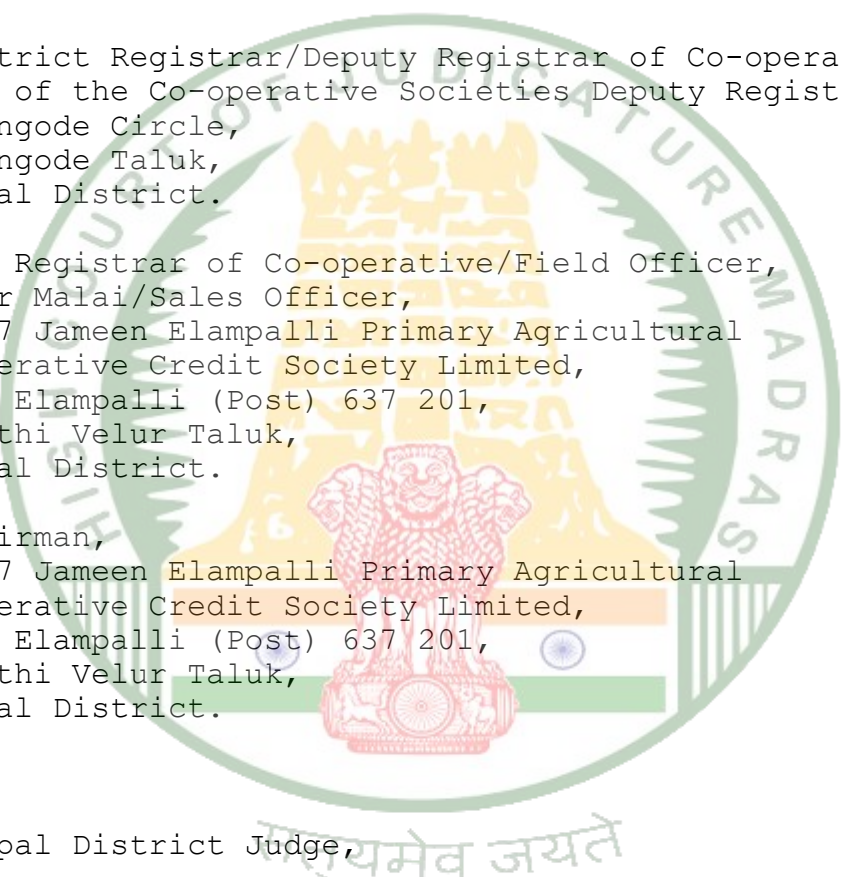
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Sub Assistant Registrar

To

1. The District Registrar/Deputy Registrar of Co-operative, Office of the Co-operative Societies Deputy Registrar, Trichengode Circle, Trichengode Taluk, Namakkal District.
2. The Sub Registrar of Co-operative/Field Officer, Kabilar Malai/Sales Officer, S. 1067 Jameen Elampalli Primary Agricultural Co-operative Credit Society Limited, Jameen Elampalli (Post) 637 201, Paramathi Velur Taluk, Namakkal District.
3. The Chairman, S. 1067 Jameen Elampalli Primary Agricultural Co-operative Credit Society Limited, Jameen Elampalli (Post) 637 201, Paramathi Velur Taluk, Namakkal District.

Copy to

The Principal District Judge, 
Namakkal.

+1 cc to M/s.R.Marudhachalamurthy, Advocate Sr.No. 11344
+1 cc to The Government Pleader Sr.No.11372

AKM/06.03.2020/3P-7C /

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