

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2020
CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.16504 of 2020 &
WMP.No.20479 of 2020

V.Tamilselvan

...Petitioner

Vs.

1. The Arbitrator/ The Deputy Registrar of Cooperative Societies Dharmapuri Zone Dharmapuri
- 2 The Secretary (Incharge)
K.K. 151 The Harur Agricultural Producers Cooperative Marketing Society Ltd Harur Town and Taluk Dharmapuri District
- 3 The Senior Inspector/ Sales Inspector K.K. 151 The Harur/ Agricultural Producers Cooperative Marketing Society Ltd Harur Town and Taluk Dharmapuri Dt ...Respondents

Prayer: Writ Petition filed under Section 226 of Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the 3rd respondent dated 15.10.2020 in pursuance of E.P. No. 07 of 2020-21 in Award No.2/2019 (Arbitration Award) passed by the Arbitrator/ Deputy Registrar of Cooperative Societies Dharmapuri Zone Dharmapuri and to quash the same.

For Petitioner : Mr. C.Prabakaran
For Respondents : Mrs.T.Girija, AGP for R1
Mr.L.P.Shanmugasundaram, Spl.G.P.
For R2 and R3.

O R D E R

This Writ Petition has been filed challenging the impugned auction notice issued by the 3rd respondent on 15.10.2020.

2. The grievance of the petitioner is that an Award was passed by the Arbitrator/Deputy Registrar of Cooperative Societies under section 90 of the Tamil Nadu Cooperative

Societies Act, 1983 and aggrieved by the same, the petitioner has filed an appeal before the Special Tribunal under section 152 of the Act during the month of June 2020. The further case of the petitioner is that a Stay application has also been filed before the Tribunal and the same is pending. While so, the 3rd respondent has proceeded to issue an auction notice to bring the property belonging to the petitioner for sale. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3. Heard Mr.C.Prabakaran, learned counsel appearing for petitioner and Mrs.T.Girija, learned Addl. Govt. Pleader appearing for the 1st respondent and Mr.L.P.Shanmugasundaram, learned Special Govt. Pleader (Co-op) appearing for 2nd and 3rd respondents.

4. In the considered view of this Court, the petitioner cannot maintain this Writ Petition in view of the judgment of the Division Bench reported in 2020 (1) CWC, Page 417 [E.S.Sundara Mahalingam v. Special Tribunal for Cooperative Cases (District Judge)]. The Division Bench has categorically held that any proceedings pertaining to the Special Tribunal can be agitated only by way of filing a Civil Revision Petition under Article 227 of the Constitution of India. If the petitioner has filed a stay application before the Special Tribunal and in the meantime steps are being taken to bring the property for sale, the most appropriate remedy that the petitioner can seek is by way of filing a Civil Revision Petition under Article 227 of Constitution of India seeking for earlier disposal of the stay application and in the meantime, to seek for an interim order. Unfortunately, the petitioner has approached this Court by filing Writ Petition under Article 226 of the Constitution of India.

5. In view of the above, this Court is not inclined to entertain this Writ Petition. Liberty is granted to the petitioner to workout his remedy by filing an appropriate petition in accordance with law and work out his remedy.

6. This Writ Petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed. The Registry is directed to return back the original impugned notice of the 3rd respondent to enable the petitioner to work out his remedy.

s/d-
Assistant Registrar(CS VII)

True Copy

Sub-Assistant Registrar

msr

To

1.The Arbitrator/ The Deputy Registrar of Cooperative Societies Dharmapuri Zone Dharmapuri.

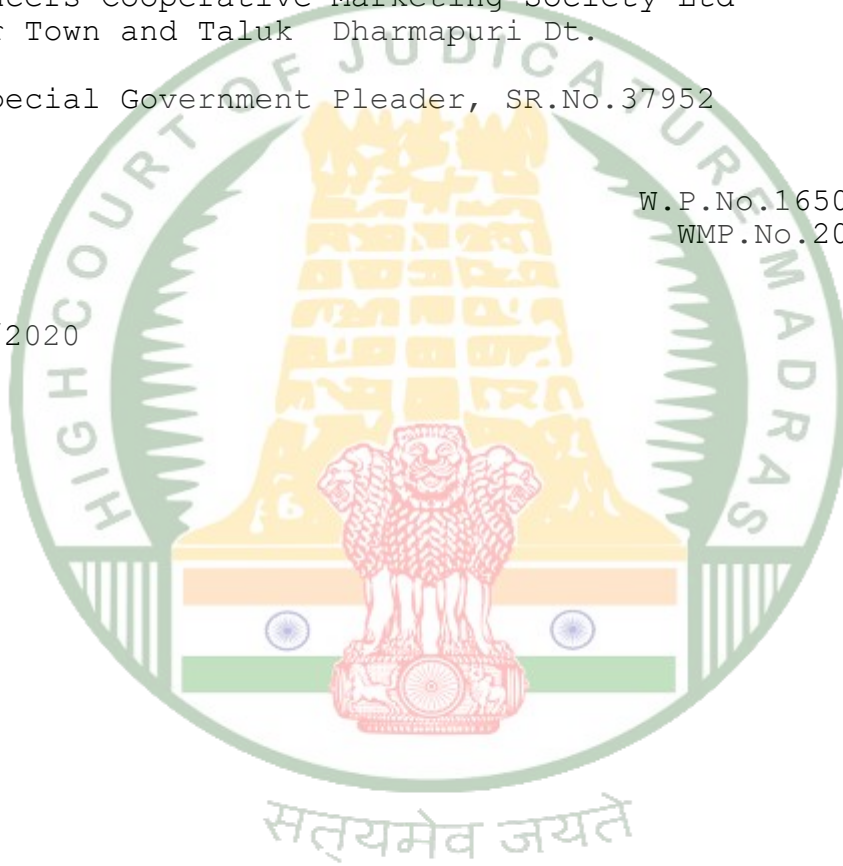
2.The Secretary (Incharge)
K.K. 151 The Harur Agricultural Producers Cooperative Marketing Society Ltd Harur Town and Taluk Dharmapuri District.

3 The Senior Inspector/ Sales Inspector K.K. 151 The Harur/ Agricultural Producers Cooperative Marketing Society Ltd Harur Town and Taluk Dharmapuri Dt.

+1cc to Special Government Pleader, SR.No.37952

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MG (CO)
KKV/03/12/2020



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