



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :06.05.2020

CORAM:

THE HONOURABLE JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.6101 of 2020

and

W.M.P. (MD) .No.5290 of 2020

P.Sivakumar

... Petitioner

Vs.

1.The Joint Registrar of Cooperative Societies,
Karur Region, Karur.

2.The Deputy Registrar of Cooperative Societies,
Kulithalai Circle, Karur District.

3.Thiruneelakandan,
The Deputy Registrar of Cooperative Societies,
Kulithalai Circle,
Karur District.

(3rd respondent is deleted from the cause list
as per the order of this Court dated 06.05.2020
in WP(MD).NO.6101/2020)

... Respondents

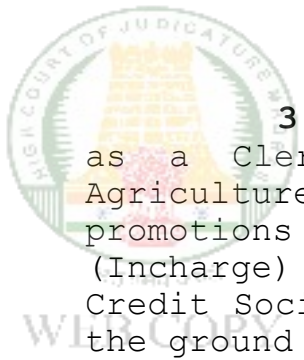
Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records pertaining the impugned auction notice issued by the second respondent in Form No.8, vide C.E.P.No.2 of 2014-15, dated 20.02.2020 and quash the same.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mrs.J.Padmavathi Devi
Special Government Pleader

O R D E R

The hearing was conducted through Video Conferencing.

2. There are two brothers, namely, P.Sivakumar and P.Sasikumar. They are both residing in the same Village at Kallai Post, Kulithalai Taluk, Karur District. They appear to be possessed with joint family properties. They are the only sharers for the properties. Each are entitled to an undivided one half share.



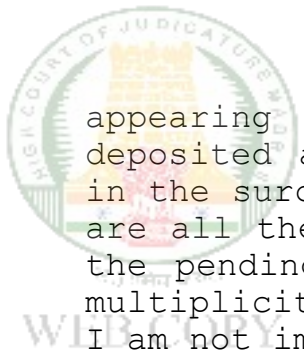
3. The present writ petitioner P.Sivakumar, was appointed as a Clerk, originally on 04.04.2001 in Pathiripatti Primary Agriculture Co-operative Credit Society. He was given subsequent promotions and finally, he was posted on 01.07.2010, as Secretary (Incharge) to the Keezhaveliyur Primary Agricultural Co-operative Credit Society. He was then placed on suspension on 17.06.2013, on the ground of misappropriation.

4. It is seen from the records that charge of misappropriation was to a sum of Rs.69,92,886/-. The petitioner had also suffered a decree on 02.09.2014 in the surcharge proceedings. He had filed an Appeal in C.M.A.(CS).No.1 of 2014, nearly about six years back and the appeal is still pending, in the Court of the learned District Judge, at Karur.

5. I am not able to comprehend the reason for non disposal of C.M.A.(CS).No.1 of 2014, since even in the month of November 2016, as is evident from an affidavit filed by the respondents seeking to vacate the stay granted in W.A.(MD).No.1261 of 2016, the said C.M.A.(CS).No.1 of 2014 was posted for arguments and it is very shocking that C.M.A.(CS).No.1 of 2014, has not yet been disposed. Before proceeding further, an explanation is called for from the learned District Judge, Karur, giving the reasons for non disposal of C.M.A.(CS).No.1 of 2014 and in the said explanation, the learned District Judge may clearly point out and whether it was due to either the non advancement of arguments the learned counsels for the appellant herein or the learned counsel for the respondents. Explanation may be given drawing reference to the notes papers. The learned District Judge may also give a schedule for disposal of C.M.A.(CS).No.1 of 2014.

6. Be that as it may, the respondents initiated execution proceedings by bringing the joint family property to sale. The brother of the petitioner, who is not involved in any manner whatsoever P.Sasikumar filed W.P.(MD).No.14171 of 2016, questioning such action of the respondents. He was represented by an Advocate and in the Bar, it was stated that there was no objection to divide the property into two halves, and that there was no objection to bring the other half of the property for sale. The learned Single Judge of this court was lead to believe the said submission. On the basis of the said submission, the learned Single Judge had recorded as follows in order dated 05.08.2016.

"5. Since the petitioner has given an undertaking before this Court that half of the property in question can be brought into action by the first respondent, for which, he has no objection, the first respondent is directed to demarcate or sub-divide the property in the presence of the petitioner as well as the second respondent, within a period of two weeks from the



appearing for the petitioner claims that the petitioner had deposited a substantial sum of money towards the decree suffered in the surcharge proceedings without prejudice to his rights. These are all the aspects which can be raised in the appropriate forum in the pending litigations and a separate Writ Petition leading to a multiplicity of proceedings should not be encouraged and therefore, I am not impressed by the said arguments.

11. It is also seen that the third respondent had been impleaded by name. The Registry is directed to delete the third respondent from the cause title at the time of issuing order copy. The learned District Judge, Karur, has to forward the explanation for non disposal of C.M.A.(CS).No 1 of 2014 to the Registrar (Judicial), Madurai Bench of Madras High Court, Madurai, on or before 05.06.2020. The Registry is directed to circulate the same in chambers.

12. With these observations, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Tsg

To

- 1.The Joint Registrar of Cooperative Societies,
Karur Region, Karur.
- 2.The Deputy Registrar of Cooperative Societies,
Kulithalai Circle, Karur District.
- 3.The District Judge,
Karur.
- 4.The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

Order made in
W.P. (MD)No.6101 of 2020

Dated:06.05.2020

NR(10.06.2020) 4P 5C

<https://hcservices.ecourts.gov.in/hcservices/>