



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.NO.6601 OF 2021

AND

W.M.P.NO.7162 OF 2021

M.Sevvanthi

...Petitioner

Vs.

1. The Deputy Registrar of Co-operative Societies,
Maduranthagam Circle, Maduranthagam,
Chengalpattu District.

2. The President,
G.1781 Puthirankottai Primary Agricultural
Co-operative Credit Society,
Puthirankottai, Cheyyur Taluk,
Chengalpattu District.

..Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.1184/2020/A3 dated 19.08.2020 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.L.P.Shanmugasundaram
Standing Counsel

O R D E R

This writ petition is filed as against the order passed by the Deputy Registrar under Section 167(2) of the Tamilnadu Co-operative Societies Act to attach the properties of the petitioner.

2. It is the case of the petitioner that the petitioner's husband was working as Secretary in the 2nd respondent society and on the basis of the audit objection for the period from 2016-2017 and 2017-2018 the 1st respondent ordered enquiry U/s.



81 of the Tamil Nadu Co-operative Societies Act, After receipt of the enquiry report, the 1st respondent initiated surcharge proceedings U/s. 87 of the Tamil Nadu Co-operative Societies Act against the petitioner's husband and also some other office bearers but, before passing the surcharge order, the 1st respondent attached the properties of the petitioner alone, except other office bearers.

3. The learned counsel appearing for the respondents would submit that as against the same, there is an appeal remedy before the District Court under Section 152 of the Act and he has referred a judgment of this Court, where a similar stand has been taken in the earlier writ petition in W.P.No. 17538 of 2020 dated 10.02.2020, which is extracted as under:

"5. With regard to the writ petition filed against the order of attachment is concerned, the learned counsel for the second respondent, co-operative society would submit that as against the order of attachment, the petitioner is having a right of appeal before the Co-operative Tribunal as per Section 152 of the Act and therefore, she can very well file an Appeal. In this regard, the learned counsel for the respondent has also relied upon the judgment of Division Bench of this court reported in A.BALARAMAN & 3 OTHERS v. THE DEPUTY REGISTRAR OF CO-OPERATIVE SOCIETIES, CHYYAR AND 2 OTHERS (2009-1-LW 681) wherein it has been held as under:-

"7. In view of the well-settled legal principle, it is not possible for this Court to take a different view and go against the order passed by the learned Judge of the writ court. We do not find any error in the judgment of the learned Judge of the writ Court. We make it clear that it is open to the petitioners to file an appeal before the Appellate Tribunal. Since, the Tribunal also has power to consider the prayer for interim protection; it is open to the petitioners to ask for such protection. However, we do not say anything on the merits of the case of the petitioners. We also make it clear that if the Appellate Authority is approached within ten days from the receipt of a copy of this order, the Appellate Authority shall entertain the appeal on file without insisting on the question of limitation since the matter was kept pending in this Court. With these observations, the writ



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appeal is disposed of. We have not decided anything on merit. All questions are kept open. Consequently, connected miscellaneous petitions are closed. However, there shall be no order as to costs."

6. In view of the above specific stand taken by the respondents that appeal remedy is available for the petitioner, both the writ petitions are disposed of making it clear that the petitioner can very well work out her remedy before the Appellate Authority/Sale Officer within a period of one week from the date of receipt of copy of this order and on such approach, the appeal/objection shall be taken up immediately by the Appellate Authority/Sale Officer, without insisting on the question of limitation and dispose of the same within a period of four weeks from the date of filing of such Appeal/Objections. No costs.

The connected Miscellaneous Petitions are closed."

4. However, the learned counsel for the petitioner has raised an objection that the petitioner's husband paid a sum of Rs.1,00,00,000/- towards surcharge proceedings, the respondents have not been taken any steps against the other erring officials namely, the President and other office bearers of the Society. The respondent has to ensure that necessary actions are taken as against all concerned, who are equally responsible for the misappropriation.

5. In view of the above specific stand taken by the respondents that appeal remedy is available for the petitioner, this writ petition is disposed of making it clear that the petitioner can very well work out her remedy before the Appellate Authority within a period of one week from the date of receipt of a copy of this order and on such approach, the appeal/objection shall be taken up immediately by the Appellate Authority, without insisting on the question of limitation and dispose of the same within a period of four weeks from the date of filing of such Appeal/Objections. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To:

1. The Deputy Registrar of Co-operative Societies,
Maduranthagam Circle, Maduranthagam,
Chengalpattu District.

2. The President,
G.1781 Puthirankottai Primary Agricultural
Co-operative Credit Society,
Puthirankottai, Cheyyur Taluk,
Chengalpattu District.

+1cc to Mr.C.Prakasam, Advocate, S.R.No.18892

+1cc to the Government Pleader, S.R.No.19112

W.P.No.6601 of 2021
and W.M.P.No.7162 of 2021

PP (CO)
CS/29/04/2021