

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 18.06.2021

PRONOUNCED ON: 29.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.R.P. (NPD) No. 1379 of 2020

And

C.M.P.Nos. 7989 & 7991 of 2020

M.Lakshmi

... Petitioner/Appellant

-Vs-

1. D.D.9, Uthagarai Agricultural Producers
Co-op Societies Ltd.,
Uthangarai
Krishnagiri District.
2. Deputy Registrar to Co-operative Societies
Dharmapuri
Dharmapuri District.
3. Deputy Registrar of Co-operative Societies
Krishnagiri.

... Respondents/Respondents

(3rd Respondent is suo moto impleaded vide order of Court dated 13.10.2020 made in CRP (NPD) 1379 of 2020 and CMP Nos. 7989 & 7991/2020)

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the dismissal order dated 01.10.2019 passed by in I.A.No. 1 of 2019 in C.M.A.(CS).No. 8 of 2014 on the file of the Hon'ble Principal District Judge at Krishnagiri.

For Petitioner : Mrs. M. Lakshmi
[Party-in-person]

For 1st Respondent: Mr. M.S.Palaniswamy

For RR 2 & 3 : Dr.S.Suriya
Government Advocate (Civil Side)

ORDER

This Revision Petition has been filed questioning the order dated 01.10.2019 in I.A.No. 1 of 2019 in C.M.A.(CS)No. 8 of 2014 pending on the file of the Principal District Court at Krishnagiri.

2. The said Interlocutory Application was filed seeking interim injunction restraining the respondents from interfering with the schedule mentioned property pending disposal of C.M.A.(CS)No. 8 of 2014.

3. The revision petitioner herein had originally filed C.M.A.(CS)No. 8 of 2014 to set aside the award passed by the Deputy

Registrar (Co-operative Societies), Dharmapuri, in ARC.No. 5471/84-85 dated 06.01.1986. The respondent society had initiated recovery proceedings against the petitioner for alleged non payment of money towards purchase of cotton from the society. They had brought on auction the schedule mentioned property. In the meanwhile, the petitioner had filed a Civil Miscellaneous Appeal. Pending hearing of the Appeal, seeking stay of all further proceedings of the award dated 06.01.1986, I.A.No. 1 of 2019 had been filed.

4. A counter had been filed by the first respondent claiming that the property had already been sold to three persons and therefore, the petition is not maintainable.

5. In the order dated 01.10.2019, the learned Principal District Judge, Krishnagiri, had pointed out the earlier steps taken by the present petitioner herein questioning the award and had observed that the petitioner had failed to impress any of the Courts wherein she had filed applications. It had been stated that the petitioner had initially challenged the sale proceedings without challenging the award passed by the District Registrar.

It had been stated that the properties had been sold in public auction. It had been therefore stated that the claim of the petitioner that she was the owner of the property, cannot be accepted, since the property had already been sold. The learned Principal District Judge therefore dismissed the application.

6. The petitioner appeared as party-in-person.

7. The matter was heard through video conferencing.

8. On an earlier occasion, a learned Single Judge of this Court had appointed an Advocate Mr.Naveen Kumar Moorthy, through the Legal Aid Cell, to appear on behalf of the petitioner. However the said counsel did not appear. The petitioner advanced arguments impressing upon this Court that till the disposal of the C.M.A.(CS)No. 8 of 2014, some protection should be granted to protect her property.

9. The contentions raised by the petitioner were strongly refuted by Mr.M.S.Palaniswamy, learned counsel for the first respondent, who

stated that the petitioner had been filing writ petitions, writ appeals and had taken recourse to every legal step, but had continuously suffered adverse orders. The learned counsel also requested the Court to examine the earlier orders passed and stated that the petitioner has come with a false case and stated that the order under revision should not be interfered with.

10. Dr.S.Suriya, learned Government Advocate (Civil Side) appearing for the second and third respondents also contended that the petitioner's case has no *bona fide* and claimed that the revision petition should be dismissed.

11. It is the contention of the respondents herein that the petitioner had failed to pay money to the society towards cotton purchased by her. Therefore, the society had initiated arbitration proceedings in ARC.No. 5471/84-85 and an award was passed on 06.01.1986. An execution petition in R.E.P.No. 73 of 1990-1991 was filed. The petitioner filed C.M.A.(CS)No. 3 of 2002 before the Special Tribunal for Co-operative Cases (Principal District Judge), Dharmapuri, against the execution petition. She did not challenge the award. The Appeal was dismissed on 26.03.2004.

Thereafter, the petitioner had filed several writ petitions, all of which came to be dismissed. Writ Appeals were also dismissed.

12. It is the contention of the petitioner herein that she had not purchased any cotton from the Society and that she had never participated in auction for purchase of cotton and that the Society had not produced any relevant records to show that she had actually purchased cotton during auction and that she was due and liable the amounts to the Society. These are all issues on facts.

13. Questioning the award dated 06.01.1986 and taking advantage of Section 152(1)(a) of the Tamil Nadu Co-operative Societies Act, 1983, the petitioner herein filed an Appeal in the Court of the District Co-operative Tribunal/Principal District Court at Krishnagiri in C.M.A.(CS)No. 8 of 2014. Among various contentions raised by the petitioner are the petitioner had not purchased any cotton and that she was forcibly dispossessed from the properties. In this connection, she claimed that she had also given various police complaints against the officials of the respondent Society. She had also stated that she was thrown out of the

house and that the movables in the houses were forcibly removed and she had also gone to the extent of stating that the Thali and other jewels of her daughter were also forcibly removed. She also stated that her son in law demanded the Thali should be produced by her daughter and since she failed, she committed suicide leaving behind three young children. The petitioner claimed that she has a victim of fraud and deceit by the officials of the respondent Society.

14. The relief she sought in I.A.No. 1 of 2019 is very limited. She sought for an injunction restraining the respective society from taking any further coercive steps pursuant to the award in ARC.No. 5471/84-85. This application came to be dismissed by the learned Principal District Judge, Krishnagiri. In the course of the order, the learned Principal District Judge had observed that the petitioner had filed writ petitions before this Court which had suffered an order of dismissal and had therefore stated that the Interlocutory Application should also be dismissed.

15. That reasoning of the learned Principal District Judge is not correct.

16. The learned Principal District Judge is under obligation to examine the affidavit and petition seeking injunction completely uninfluenced by any of the orders passed in any writ petitions/writ appeals by this Court. The Appeal is an statutory appeal filed by the petitioner herein and should be examined purely on its merits.

17. While disposing the writ petitions and writ appeals, this Court had examined the issues based only on affidavits and had not thought it fit to interfere with the normal course of Court procedure, namely, the appeal procedure as enunciated under Section 152(1)(a) of the Tamil Nadu Co-operative Societies Act 1983. Therefore, an obligation is phased on the learned Principal District Judge, Krishnagiri, to examine the Interlocutory application and the appeal in their proper perspective. I am confident that the learned Principal District Judge would examine the averments made in the grounds of appeal and thereafter, take a considered decision whether the appeal should be allowed or not.

18. Till such a decision is taken, it is only proper that the petitioner is afforded protection from any further coercive action by the respondents. The petitioner's earlier writ petitions/writ appeal may have been rejected by this Court but now she has an opportunity to put forth her grievances against the award and the First Appellate Court also being a Court of facts and law should examine the facts as stated by the petitioner and as stated by the respondents and thereafter, determine whether any grounds prevail disputing the award in ARC.No. 5471/84-85.

19. The very fact that the properties have been put to auction should also not prevail on the mind of the learned Principal District Judge. If it is determined that injustice has been done, the learned Principal District Judge, Krishnagiri, will have every authority to put the petitioner back to the status where she was prior to the auction of the properties. These are decisions to be taken by the learned Principal District Judge, Krishnagiri. The order under revision will necessarily have to be interfered with and I have no hesitation in setting aside the order and granting an order of protection as prayed for by the petitioner in I.A.No. 1 of 2019 till the disposal of C.M.A.(CS)No. 8 of 2014.

20. Let the parties go back to the Principal District Court at Krishnagiri, which is a Special Tribunal constituted under the provisions of the Act and put forth all their contentions before that particular Appellate Authority.

21. I must also state that the petitioner herein had raised an issue claiming that she was not at all a member of the Society and that she had not even participated in the auction. These are facts to be examined and determined. It is also seen that the award is an *ex parte* award. Therefore, I would also give a further direction that if the petitioner or the respondents in C.M.A.(CS)No. 8 of 2014 request that an opportunity may be granted to tender oral evidence, then depending on the nature of the averments made in the affidavits filed in support of such applications, the learned Principal District Judge, Krishnagiri, may also take a considered decision on such applications and if permission is granted to adduce evidence, may record evidence or call upon the Court of the first instance to record evidence.

22. With the above observations, this Civil Revision Petition is allowed. No order as to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

29.06.2021

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Index: Yes/No

Internet: Yes/No.

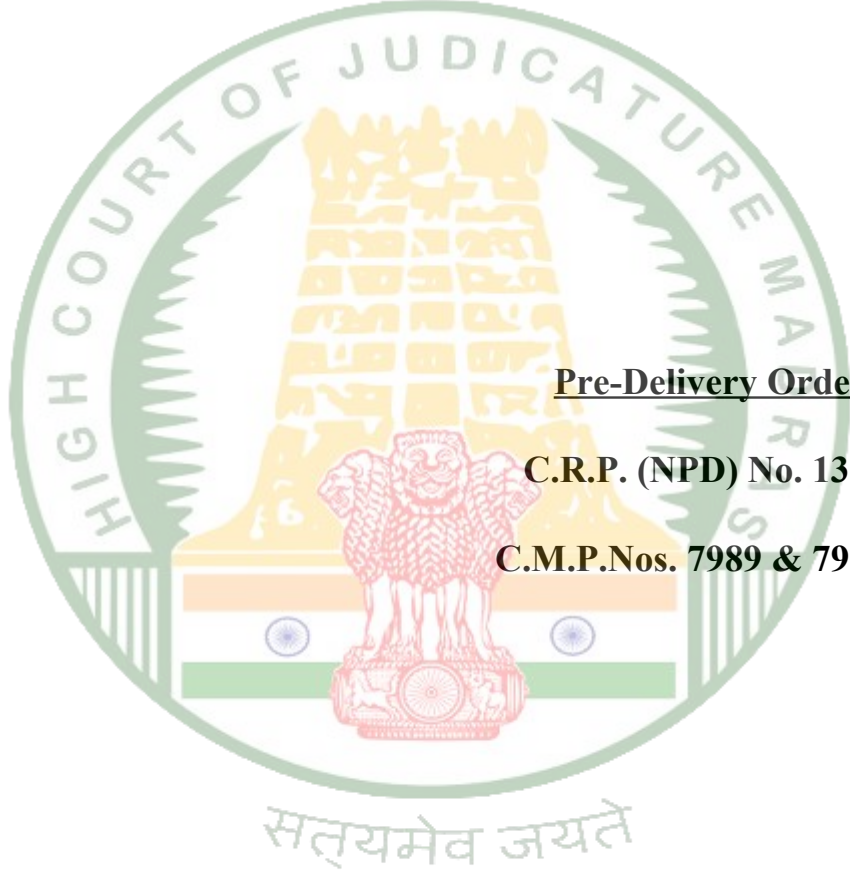
Speaking / Non speaking

To

1. Principal District Court at Krishnagiri
2. D.D.9, Uthagarai Agricultural Producers
Co-op Societies Ltd.,
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3. Deputy Registrar to Co-operative Societies
Dharmapuri
Dharmapuri District.
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C.V.KARTHIKEYAN, J.

vsg



Pre-Delivery Order made in

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