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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.08.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH.,J

W.P.No.16496 of 2021 &
W.M.P.No.17467 of 2021

C.Geetha

... Petitioner

Vs

1. The Deputy Registrar Co- Operative Societies,
Coimbatore Circle
Coimbatore.
- 2 The Administrartor
K.1471, Velandipalaym, Town Co-operative
Credit Society , 11/43 Sastri Street ,
Kovilmedu, Velandipalayam Post, Coimbatore 641 025.
- 3 The Sub - Registrar,
Sub - Registrar Office, Pelamedu,
Coimbatore District.

... Respondents

Prayer .: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified Mandamus to Calling for records pertaining to the orders of conditional attachment passed by the 1st respondent in C.E.P.No.04/2019 / S.F -3 dated 29/03/2019 and consequential auction notice issued by the 1st respondent in form VII notice in Ne.Ma.19 /2021 / Sa Pa 3 dated 21/06/2021 and quash the same.

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.A.Selvendiran
Government Advocate

O R D E R

The subject matter of challenge in the present writ petition is the conditional order of attachment passed by the 1st respondent through the impugned proceedings dated 29.03.2019 and the consequential auction notice issued by the 1st respondent dated 21.06.2021.



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2. Heard the learned counsel for the petitioner and Mr.A.Selvendiran, Government Advocate, appearing on behalf of respondents.

3. It is seen from records that already an order has been passed under Section 87 of the Tamil Nadu Co-operative Societies Act and the same has been made a subject matter of challenge in an Appeal filed under Section 152 of the Act before the Special Tribunal, Principal District Judge, Coimbatore, in CMA No.9 of 2021. It is brought to the notice of this Court that an application for interim stay has been filed in I.A.No.2 of 2021 and the same is also pending before the same Court.

4. In the meantime, proceedings have been initiated to attach the property and bring it for auction sale. Aggrieved by the same, the present writ petition has been filed before this Court.

5. The learned counsel for the petitioner submitted that the 1st respondent has proceeded to pass the conditional order of attachment even without following the procedure under Section 167 of the Act.

6. In the considered view of this Court, the attachment of the property and bringing the same for auction sale, are the consequence of an order passed under Section 87 of the Act. Admittedly, the petitioner has filed a stay application before the Tribunal while challenging the surcharge order. The petitioner has to necessarily move the stay application and seek for the stay of operation of the order. Once that is done, automatically the subsequent proceedings will be kept in abeyance. It is brought to the notice of this Court that the matter is posted for hearing before the Court below on 23.08.2021.

7. In view of the above, this Court is not inclined to entertain this writ petition and a writ petition cannot be entertained merely for the purpose of getting an interim order where the substantial issue is pending before the appropriate forum. It will be left open to the petitioner to move the stay application that has already been filed in the Appeal and the Court below shall consider the same while the matter is taken up for hearing on 23.08.2021. Except giving this liberty, no further



orders can be passed in this writ petition and accordingly, the same stands dismissed. Consequently, the connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar Co- Operative Societies,
Coimbatore Circle
Coimbatore.
- 2 The Administrator
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Credit Society , 11/43 Sastri Street ,
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- 3 The Sub - Registrar,
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Coimbatore District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate Sr.39335

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rr[co]
srg 10/08/2021