



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2021

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.16452 of 2021
and WMP No.17419 of 2021

A.Karunanidhi

...Petitioner

Vs

1. The Deputy Registrar of Co-operative Societies,
Cuddalore circle,
Cuddalore.

2. E1487, Cuddalore District,
Saravana Bhava Consumer
Co-operative Wholesale Stores Limited,
Rep. By its Managing Director,
Cuddalore -1

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus to Call for the records of the notice under Section 167 of the Tamil Nadu co-operative Societies Act in ARC.No.403/ 2020 -2021 dated 06/07/2021 and consequential order in CEP.No.55/2020 -2021 dated 09/07/2021 on the file of the 1st respondent quash the same and direct the 1st respondent to raise the order of attachment made in S.Nos.111/3 (Patta No.229) measuring 0.52.0 ares at Chithrasur Village Panruti Taluk and cuddalore District.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mr.A.Selvendran
Government Advocate

O R D E R

The subject matter of challenge in the present writ petition pertains to the proceedings initiated by the 1st respondent in ARC No.403/2020-2021 dated 06.07.2021 and the consequential order dated 09.07.2021 and for a direction to the



1st respondent to raise the order of attachment made against the subject property.

2. The main ground that was taken by the petitioner is that the arbitration proceedings under Section 90 of the Tamil Nadu Co-operative Societies Act, has been initiated in the name of the father of the petitioner, who was dead and gone in the year 2016 itself and whereas the proceedings have been initiated against this dead person in the year 2021. Pursuant to the initiation of this proceedings, an order of attachment also came to be passed by the 1st respondent and that has also been put to challenge in the present writ petition.

3. When the matter was taken up for hearing on 06.08.2021, this Court directed the learned Government Counsel to take instructions and report before this Court.

4. When the matter was taken up for hearing today, the learned Government counsel based on the written instructions received from the 1st respondent submitted that one Stalin, who was working as a Pharmacist in the Cuddalore District Saravanabava Consumer Whole Sale Store, viz., the 2nd respondent had caused a loss to the tune of Rs.7,10,269/-. The 1st respondent therefore proceeded to initiate arbitration proceedings. The said Stalin is the grand son of late Annamalai. Even in the written instructions, it is stated that there are no properties which stands in the name of either Stalin or Annamalai. It is further stated that at the time of initiation of proceedings against Annamalai, the 1st respondent was not aware of the fact that he was dead.

5. It is clear from the above that the arbitration proceedings has been initiated against Annamalai, who was dead and gone in the year 2016 itself. Therefore, the very proceedings is non-est in the eye of law. Consequentially, the attachment order that was passed after the initiation of the arbitration proceedings must also fail.

6. In view of the above discussion, the arbitration proceedings initiated by the 1st respondent in ARC No.403/2020-2021 dated 06.07.2021 and the consequential order dated 09.07.2021, are hereby quashed. It is left open to the 1st respondent to initiate proceedings for recovery of the amount in the manner known to law and strictly in accordance with the



provisions of the Tamil nadu Co-operatives Societies Act and Rules thereunder.

7. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

The Deputy Registrar of Co-operative Societies,
Cuddalore circle,
Cuddalore.

+1CC to Mr.M.S.Palaniswamy, Advocate, Sr.No.44809
+1CC to the Government Pleader, Sr.No.45519

W.P.No.16452 of 2021

SR-II (CO)
K.RK. (05.10.2021)