



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.04.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.Nos. 16406 & 16407 of 2018
and WMP.Nos. 19555 to 19558 of 2018

S.Mahalakshmi

..Petitioner in both W.Ps

Vs

1. The Assistant Director,
Handloom and Textiles office,
Bhavani Mani Road,
Asokapuram,
Erode.
2. The Sale Officer cum Handloom Inspector,
O/o The Assistant Director,
Handloom and Textiles office,
Asokapuram,
3. The President,
EH. 205, Chennaimalai Power loom
Wearvers Co-operative,
Production and Sale Society Ltd.,
Chennaimalai,
Perundurai Taluk,
Erode District.

.. Respondents in both W.P

Prayer in W.P.No.16406 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, directing the respondents to call for the records relating to the impugned Sale cum Auction notice issued by the 2nd Respondent by his Proceedings Vide 01/2018 - 2019 dated 08.06.2018 and quash the same as illegal and unconstitutional.

Prayer in W.P.No.16407 of 2018: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, directing the respondents to call for the records relating to the impugned Attachment No.02/2017-18, RC.No.7434/2017/F dated 09.06.2017 and consequential Sale cum Auction notice issued by the 2nd respondent by his proceedings Vide 02/2017-2018 dated 08.06.2018 and quash the same as illegal and unconstitutional.



For Petitioner in Both W.Ps : Mr.K.G.Senthilkumar

For Respondents in Both WPs : Ms.T.Girija, AGP

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O R D E R

The prayer sought for in the Writ Petition is to direct the respondents to call for the records relating to the impugned order passed by the 4th respondent in his proceedings Na.Ka.No. 1574/2018/AA.2, dated 31.05.2018 and quash the same.

2. Brief facts of the case is that the petitioner's husband was working as a Manager in the 3rd respondent Society and allegations were made against him that he had caused loss to the society to the tune of Rs.5,32,19,693.80. Since it is a huge amount, the 1st respondent passed an attachment order on the petitioner's husband and petitioner's property and brought it for sale cum auction. The sale notice relates to Gold Jewels to a tune of 440.7 grams of the petitioner were sreedhana property of the petitioner which was given by her parents for her marriage, hence bringing in auction of the above property of the petitioner is illegal. Hence, challenging the auction notice issued by the 2nd respondent vide proceedings No. 01/2018-2019 dated 08.06.2018 and the attachment order issued by the 1st respondent vide proceedings in CEP.No.02/2017-18, RC.No.7434/2017/F, dated 09.06.2017, the petitioner has preferred these writ petitions.

3. Heard both sided and perused the documents available on record.

4. The learned counsel for the petitioner submitted that the petitioner's husband was wrongly implicated in the said alleged loss in the impugned order. The learned counsel for the petitioner further submitted that the property of the petitioner, who is a wife of an employee cannot be attached and cannot be brought for sale.

5. On the other hand, the learned Additional Government Pleader submitted that the impugned attachment order was issued by the 1st respondent under Section 167 of the Tamil Nadu Cooperative Societies Act, 1983. If the petitioner really aggrieved by the said order and notice, the petitioner can make objections under Sub Rule 1 Rule 135 of the Tamil Nadu Cooperative Societies Act, 1983. The authorities concerned shall investigate into the objections raised by the petitioner and pass orders on merits. But the petitioner without availing the said opportunity, has approached this Court by way of writ



petitions. This Court concurs with the submissions made by the learned Additional Government Pleader.

6. Considering the facts and circumstances of the case and the submissions made by the learned Additional Government Pleader appearing, the following directions are issued

i. The writ petitioner is directed to submit her objections to the Sale Officer within a period of six (6) weeks from the date of receipt of a copy of this order.

ii. On receipt of such objections from the petitioner, the authorities concerned shall investigate and pass appropriate orders on merits by providing an opportunity to the petitioner

iii. At the time of admission, this Court by order dated 03.07.2018 granted interim order of status-quo with regard to the movable and immovable properties belonging to the petitioner, until further orders. The said interim order of status-quo shall continue till final orders passed by the respondents Under Section 135 of the Tamil Nadu Co-operative Societies Act, 1983.

With the above directions, these writ petition are disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-VII)

//True copy//

Sub Assistant Registrar

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To

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Handloom and Textiles office,
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Asokapuram,
Erode.
2. The Sale Officer cum Handloom Inspector,
O/o The Assistant Director,
Handloom and Textiles office,
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3. The President,
EH. 205, Chennaimalai Power loom
Wearvers Co-operative,
Production and Sale Society Ltd.,
Chennaimalai,
Perundurai Taluk,
Erode District.

+2cc to Mr.G.Mohanakrishnan, Advocate SR.No.23610, 23611
+2cc to Government Pleader [Co-op] SR.No.23986, 23987

W.P.Nos.16406 & 16407 of 2018
and
WMP.Nos. 19555 to 19558 of 2018

PMK(CO)
HS(19/07/2021)