



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.17985 OF 2021
WMP NOS. 19206,19207,19208 OF 2021

1. Shakila Parvin
2. K.Syed Nishanth Basha

...Petitioners

-Vs-

1. The Deputy Registrar of Cooperative societies,
Tindivanam Circle, Tindivanam,
Villupuram District.
2. The Secretary,
Sathyamangalam Primary Agricultural
Cooperative Credit Society,
Sathyamangalam, Gingee Taluk,
Villupuram District.

...Respondents

Prayer :

Writ Petition under Article 226 of the Constitution of India calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings ARC.No. 01/2021 -2022, CEP NO. 01/2021-2022. dated 12/08/2021 and quash the same.

For Petitioner : C. Prakasam

For Respondents : Mr.A.Selvendran,
Government Advocate - for R1

*** Dr.S.Suriya,
Additional Government Pleader,
for R2**



ORDER

The subject matter of challenge in the present writ petition pertains to the proceedings of the first respondent dated 12.08.2021 wherein the first respondent has proceeded to attach the subject properties belonging to the petitioner.

2. The case of the petitioners is that, the first petitioner's husband was working as the Secretary in the second respondent Society and it is alleged that during his tenure, due to various irregularities, the Society sustained a loss to the tune of Rs.2,21,26,447/-. Arbitration proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 (hereinafter referred to as 'the Act') was initiated and pending the said proceedings, the impugned attachment order came to be passed by the first respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

3. Learned counsel for the petitioners submitted that, the properties in question absolutely belong to the petitioners and these properties were purchased long prior to the alleged irregularities that is said to have been committed in the year 2017. The learned counsel therefore submitted that, the first respondent, even without issuing a notice to the petitioners and inquiring regarding the source of the properties, has proceeded to pass the attachment order in an arbitrary fashion. Therefore, according to the learned counsel for the petitioners, the attachment order passed by the first respondent is liable to be interfered by this Court.

4. The learned Government Counsel appearing on behalf of the first respondent submitted that, there were large scale irregularities that were committed by the husband of the first petitioner, who was functioning as the Secretary of the second respondent Society. The learned counsel submitted that, considering the huge amount of loss that was sustained by the Society to the tune of Rs.2,21,26,447/- , it became necessary for the first respondent to exercise his power under Section 167 of the Act in order to attach the subject properties and secure those properties, pending arbitration proceedings under Section 90 of the Act. The learned counsel submitted that, the petitioners can always appear before the first respondent and raise all the defence and the same will be considered by the first respondent. The learned Government Counsel therefore submitted that, there are absolutely no grounds to interfere with the impugned attachment order passed by the first respondent.



5. The learned counsel appearing on behalf of the second respondent adopted the arguments made by the learned Government Counsel and submitted that, the interest of the Society is to be safeguarded considering the enormity of the loss sustained by the second respondent Society due to the irregularities committed by the husband of the first petitioner, while he was functioning as the Secretary of the Society.

6. This Court has carefully considered the submissions made by the learned counsel on either side and perused the materials placed on record.

7. It is brought to the notice of this Court that, the husband of the first petitioner died on 11.05.2021 during the pendency of the proceedings. Considering the enormity of the loss sustained by the second respondent Society, the first respondent has proceeded to pass an order of attachment under Section 167 of the Act. The said power is vested with the first respondent pending arbitration proceedings under Section 90 of the Act. The learned counsel for the petitioner submitted that, none of the properties that were attached, had anything to do with the alleged irregularities and all these properties were purchased much prior to the alleged irregularities that took place in the year 2017.

8. In the considered view of this Court, whatever defence is raised by the petitioners, can always be raised before the first respondent who had passed the impugned order. The learned counsel for the petitioners submitted that the petitioners will not alienate or encumber any of the properties till a final decision is taken by the first respondent. This undertaking is recorded and in view of the same, the subject properties remain to be secure and if ultimately it has to be proceeded against, it will always be open to the respondents to do so.

9. In view of the above discussion, the petitioners are directed to give their objections before the first respondent along with all the materials. The first respondent shall consider the same on its own merits and in accordance with law and take a decision within a period of eight weeks from the date of receipt of a copy of this order. In view of the undertaking given by the petitioners, the order passed by the first respondent shall be kept in abeyance till final orders are passed by the first respondent after considering the objections made by the petitioners. The petitioners shall give their objections along with all the materials before the first respondent within a period of ten days from the date of receipt of a copy of this order.



10. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar(CS-VII)
(17/09/2021)

***Corrected order as per
letter dated 02.02.2022**

// True Copy //

Sub Assistant Registrar

KST

To

1. The Deputy Registrar of
Cooperative Societies,
Tindivanam Circle,
Tindivanam,
Villupuram District.

2. The Secretary, Sathyamangalam
Primary Agricultural
Cooperative Credit Society,
Sathyamangalam,
Gingee Taluk, Villupuram District.

***To be substituted
the order already
despatched on
11.10.2021**

+1cc to the Government Pleader, S.R.No.43909

W.P.No.17985 of 2021 &
WMP No.19206,19207,19208 of 2021

RSV(CO)
RLP(20/09/2021)
PM/10/03/2022)