



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2021

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THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

WP.NO.20468 OF 2020

&

WMP NO.25244 OF 2020

S.Sargunam

...Petitioner

-Vs-

1. The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.

2. Keelmorappur Primary Agricultural Co-operative Credit Society,
rep. by its Secretary,
Harur Taluk,
Dharmapuri District.

3. K.Sivalingam

4. The Sub Registrar,
Morappur,
Dharmapuri District.

...Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for records of the order of attachment passed by the first respondent in N.M.No.4280/2019/V.A dated 05.11.2020 quash the same and direct the 4th respondent to raise the attachment made in S.No.22/5, measuring 2.59 acres at Kuttapatti Village, Harur Taluk, Dharmapuri District.

For Petitioner : Mr.J.Pradeep

For Respondents : Mr.A.Selvendran,
GA for RR1 & 4
Mr.L.P.Shanmugasundaram
for R2



ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, calling for records of the order of attachment passed by the first respondent in N.M.No.4280/2019/V.A dated 05.11.2020 quash the same and direct the 4th respondent to raise the attachment made in S.No.22/5, measuring 2.59 acres at Kuttapatti Village, Harur Taluk, Dharmapuri District.

2. The petitioner is a third party. According to the petitioner, she is the owner of the above said property having purchased under a registered sale deed dated 17.10.1997. The petitioner is the wife of the 3rd respondent, who was alleged to have committed misappropriation of funds to the tune of Rs.29,44,145/-. While so, by invoking Section 167(2) of the Tamil Nadu Co-operative Societies Act, 1983, the 1st respondent issued impugned proceedings dated 05.11.2020, ordered attachment of the subject property in order to recover the amount and addressed the said proceedings to the Sub Registrar, Morappur, 4th respondent herein, not to deal with the subject property. The grievance of the petitioner is that she is the absolute owner of the property and without issuing any prior notice or affording an opportunity to her, the 1st respondent has passed the impugned order of attachment, which cannot be sustained in law or on facts. Hence, in this regard, the petitioner raised objections by making a representation on 20.11.2020. Therefore, the aforesaid impugned order passed by the first respondent is to be quashed.

3. Heard Mr.J.Pradeep, learned counsel for the petitioner and Mr.A.Selvendran, learned Government Advocate appearing for the respondents 1 & 4 and Mr.L.P.Shanmugasundaram, learned counsel appearing for the second respondent.

4. The learned Government Advocate appearing for the respondents 1 & 4, while drawing the attention of this Court to Rule 135(1) of the Tamilnadu Co-operative Societies Rules 1988, would submit that if any claim is preferred to, or any objection is made to, the attachment of any property attached on the ground that such property is not liable to such attachment, the sale officer will investigate the claim or objection and dispose of it on merits. Therefore, the learned Government Advocate would submit that the objections raised by the petitioner would be considered and dispose of the same on merits.

5. In view of the facts and circumstances and the submissions made by the learned Government Advocate and in view of the aforesaid Rule, this Court directs the Deputy Registrar of Co-operative Societies, the first respondent herein to consider the objections raised by the petitioner in her



representation dated 20.11.2020 and pass appropriate orders on merits and in accordance with law after providing an opportunity of personal hearing to the petitioner as well as the other interested parties, within a period of twelve(12) weeks from the date of receipt of a copy of this order.

6.The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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To

1. The Deputy Registrar of Co-operative Societies,
Dharmapuri Circle,
Dharmapuri.
2. The Secretary,
Keelmorappur Primary Agricultural Co-operative Credit Society,
Harur Taluk,
Dharmapuri District.
3. The Sub Registrar,
Morappur,
Dharmapuri District.

+1cc to Mr.J.Pradeep, Advocate, S.R.No.33924

+1cc to the Government Pleader, S.R.No.33504

W.P.No.20468 of 2020

PCH(CO)
RLP(01/10/2021)