



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.03.2021

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THE HONOURABLE MR.JUSTICE V.PARTHIBAN

W.P. (MD) No.6088 of 2021

K.Santhi

.. Petitioner

Vs

The Deputy Registrar of
Cooperative Societies,
(Ground Floor),
Thiruparamkundra Salai,
Palanganatham Roundana,
Madurai-3.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondent to consider the petitioner's representation dated 18.02.2021 requesting the respondent to raise the attachment made on the petitioner's personal properties bearing 1) Re.S.No.15/1, situated at Athikulam Village, Madurai North Taluk, 2) D.No.5 T.S.No.805/6, 7 and 8, situated at Ismailpuram 9th Street, Munisalai, Madurai-9 3) D.No.7F, T.S.802/3, situated at Ismailpuram 10th street, Munisalai, Madurai -9.

For Petitioner : Mr.K.Periasamy

For Respondent : Mr.B.Bhagavathi
Government Advocate

ORDER

The case of the petitioner is that her husband had caused loss to the tune of Rs.17,21,680/- to the Education Department Employees Cooperative Societies, Madurai. Charges were framed against him and the same came to be proved. According to her, her husband has preferred an appeal in CMA.No.41 of 2006 on the file of the Principal District Court, Madurai and the same was dismissed. As against that, CRP.(MD) No.1209 of 2009 has been filed and the same is pending before this Court. During the pendency of the same, her husband died. This Court disposed of the civil revision petition, vide order dated 24.06.2019. While disposing of the same, this Court has observed as under.

"7.At this juncture, the learned counsel for the petitioner submitted that several properties of the



revision petitioner have been attached. It is contended that despite the fact that a sum of five lakhs and add had already been paid, in execution proceedings, several properties of the revision petitioner are brought to sale simultaneously. Having regard to the settled principle all the properties attached need not be sold and sale of property should be according to need. However, the details of properties attached and this valuation are not submitted. Hence, this court is inclined to pass the following order.

a) The first respondent is directed to proceed against the properties of revision petitioner only to the extent of money that is required to be realized from the revision petitioner.

b) The respondent is directed to bring for sale the property that is sufficient to discharge the amount due from the revision petitioner based on proper valuation. After fixing the properties that are sufficient to discharge the liability of revision petitioner, the respondent may proceed with the sale in the manner known to law."

2.The grievances of the petitioner herein is that without following the directions of this Court in the above said civil revision petition, the proceedings were initiated against the other properties belonging to the petitioner. According to her, 1st item of the suit property was purchased by her by way of a registered sale deed dated 21.10.1993. Likewise, 2nd and 3rd items of the suit property belong to the petitioner's mother, which had been executed in her favour in 2003. According to the petitioner, her husband has nothing to do with the properties.

3.In the above circumstances, the petitioner appears to have submitted a representation to the respondents requesting them to raise the attachment made against the property belonging to the petitioner.

4.This Court is unable to appreciate as to how a mandamus could be issued without challenging the attachment order, if any by the respondent society. Unless any materials filed along with the writ petition demonstrating unjust and illegal action of the respondent society in bringing the properties belonging to the petitioner for auction and attaching the properties belonging to the petitioner, this Court cannot entertain this writ petition.

5.No doubt, the petitioner appears to have obtained a direction in her favour in the above said civil revision petition, but this Court is not inclined to entertain this writ petition for the reason that nothing has been stated as to when the



attachment order has been passed by the respondent society and the connected details. In the absence of any detail and also the fact that the averments in the affidavit are bald and sketchy, this Court does not think that the writ petition can be entertained as it is framed.

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6.This Court is of the view that minimum requirement for the petitioner is to disclose the details of the attachment order and without disclosing the same, this Court is of the view that there is no cause of action for the petitioner to maintain this writ petition. In any event, the petitioner cannot maintain a writ of mandamus in the circumstances of the case without putting an attachment order to challenge.

7.For the above said reasons, this writ petition stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

The Deputy Registrar of
Cooperative Societies,
(Ground Floor),
Thiruparamkundra Salai,
Palanganatham Roundana,
Madurai-3.

+1 CC to M/s.PT.S.NARENDRAVASAN, Advocate (SR-12138[F] dated 18/03/2021)

+1 CC to M/s.SPL GP (SR-12490[F] dated 19/03/2021)

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18.03.2021

KMV(CO)

TR(22.04.2021) 3P 4C