



Sub Application (OS) No.432 of 2022

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in

Cont.P.No.45 of 2020

S.M.SUBRAMANIAM,J.

This Court passed an order on 26.09.2018 in W.P.No.7016 of 2017
as follows:

“7. Accordingly, the Official Liquidator is directed to dispose the property through public auction and the amount realised shall be disbursed to the petitioners. The above exercise shall preferably be completed within a period of two months from the date of receipt of a copy of this order. Learned counsel for the petitioners has filed a calculation memo indicating the amounts due to each of the petitioner along with interest.

8. Though the petitioners have claimed interest in the calculation memo, as pointed out above, payment of interest at this point of time cannot be entertained. Accordingly, the calculation memo shall form part of this order only insofar as gratuity amount is concerned and the same shall be paid to the petitioners in accordance with the calculation memo filed by the petitioners and as accepted by both sides before this Court.”



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2. Pursuant to the order, the Official Liquidator has initiated action to settle the liabilities and meanwhile, the petitioner filed the contempt proceedings in Cont.P.No.45 of 2020. The said contempt petition was closed by this Court on 25.03.2021 on the ground that the Official Liquidator made a submission that the process will be completed within a period of six months. The present sub application is filed to reopen the contempt proceedings initiated in Cont.P.No.45 of 2020 on the ground that the Official Liquidator has not completed the process within a period of six months as stated before this Court .

3. The learned counsel for the petitioner made a submission that the properties belonging to the society were not auctioned and therefore, the contempt petition is to be reopened.

4. The learned counsel appearing on behalf of the respondent society made a submission that steps were taken by the Official Liquidator appointed under the provisions of the Tamil Nadu Cooperative Societies Act and on verification, the Official Liquidator found that the said property is



classified as “Kuttai Poramboke” and therefore, the property cannot be auctioned in public.

5. The Official Liquidator Smt.P.Muthulakshmi who is present before this Court contended that on verification of revenue records, it was found that the property is classified as “Kuttai Poramboke” and therefore, it cannot be auctioned by the Society.

6. The Official Liquidator is appointed under section 138 of the Tamil Nadu Cooperative Societies Act. Section 137 provides winding up of Registered Society. Section 139 provides powers of the Official Liquidator. Thus, the Official Liquidator has to act in exercise of the powers contemplated under section 139 of the Tamil Nadu Cooperative Societies Act. The powers exercised by the Official Liquidator under Section 139 are protected under Section 141 which denotes bar of legal proceedings. As per Section 141 of the Act, “no Civil Court shall take cognizance of any matter connected with the winding-up or cancellation of the registration of a registered society under this Act, and when a liquidator has been appointed,



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no suit or other legal proceeding shall lie or be proceeded with against the liquidator as such or against the society or any member thereof on any matter touching the affairs of the registered society, except by leave of the Registrar and subject to such terms as he may impose.” Therefore, the Official Liquidator appointed under Section 138 of the Act must be allowed to exercise her powers under Section 139 of the Act and it is not as if this Court can compel the Official Liquidator through contempt proceedings. The practical difficulties are also to be considered by the Courts. Pursuant to the orders passed by this Court in a writ petition, the respondent Official Liquidator initiated action and on verification of the revenue records and found that the said property belonging to the Society is classified as “Kuttai Poramboke” and therefore, the Society has no right to auction the said property in the public.

7.The learned counsel appearing on behalf of the respondents further made a submission that the assets and liabilities are already crystallized and all appropriate actions are taken by the Official Liquidator and the liabilities are to be cleared proportionately considering the other claims of the



members of the respondent Society who have also invested there hard earned money in the society.

8. It is brought to the notice of the Court that a portion of the property classified as “Kuttai Poramboke” had already been auctioned by the EPF authorities in an illegal manner. This requires an enquiry by the District Collector, Kancheepuram District, if any illegal auction of “Kuttai Poramboke” is made by the EPF authorities or by any other person, all appropriate actions should be initiated to restore the “Kuttai Poramboke” land which is to be utilised for public purposes in the interest of public. The registering authorities also had not verified the classification of the land which was registered. In this regard also an enquiry and further action are required by the competent authorities. At the outset, the District Collector has to conduct an enquiry and initiate all appropriate actions against the illegal registration of the documents if any and restore the “Kuttai Poramboke” land from the hands of the illegal occupants and evict the encroachers and utilise the land for public purposes. In this regard, the Official Liquidator is also directed to submit an appropriate complaint to the



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District Collector setting out all the facts and circumstances along with the relevant documents.

9. As far as the Claim of the petitioner is concerned, the Official Liquidator has already initiated action and the liabilities are to be settled by following the procedures as contemplated under the provisions of the Tamil Nadu Cooperative Societies Act. The debts are to be cleared proportionately and in accordance with the provisions of the Act and the Rules. It is not as if the petitioner alone can take away the Society which was already liquidated depriving the other members and creditors who all are also struggling to get their portion of investment and money invested.

10. The registry is directed to communicate a copy of this order to the District Collector, Kancheepuram. Accordingly, this sub application stands disposed of.

13.10.2022

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