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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.18081 of 2020

and

W.M.P.No.22467 of 2020

S.Ramani

... Petitioner

Vs

1. The District Registrar/Deputy Registrar of
Co-operative,
Office of the Co-operative Societies
Deputy Registrar,
Trichengode Circle,
Trichengode Taluk,
Namakkal District.
2. The Sub Registrar of Co-operative/Field Officer,
Kabilar Malai/Sales Officer,
S.1067, Jameen Elampalli Primary Agricultural
Co-operative Credit Society Limited,
Jameel Elampalli (Post),
Paramathi Velur Taluk,
Namakkal District - 637 201.
3. The Chairman,
S.1067, Jameen Elampalli Primary Agricultural
Co-operative Credit Society Limited,
Jameel Elampalli (Post),
Paramathi Velur Taluk,
Namakkal District - 637 201.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the sale notice in Form-8 and Form-9 issued under Rule 126(2) of the Tamil Nadu Co-operative Societies Rules, 1988 dated 29.10.2020 issued by the first respondent and quash the same, consequentially issued direction directing the first respondent to obey the direction issued by this Court in W.P.No.8619 of 2019 dated 26.03.2019 and W.P.No.3214 of 2020 dated 11.02.2020 by considering the petitioner representation dated 31.07.2019.



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For Petitioner : Mr.R.Marudhachalamurthy
For Respondents :
For R1 & R2 : Mr.M.Shahjahan
Special Government Pleader
For R3 : Mr.R.Balaramesh

ORDER

The petitioner has challenged the Impugned Sale Notice dated 29.10.2020 under the provisions of the Tamil Nadu Co-operative Societies Act, 1983.

2. Earlier also the petitioner had filed another writ petition in W.P.No.3214 of 2020 wherein, the petitioner has challenged the similar notice issued under Rule 126(2) of the Tamil Nadu Co-operative Societies Rules, 1988 dated 07.01.2020. At that stage, against the surcharge proceedings initiated against the petitioner, the petitioner's appeal in C.M.A.No.09 of 2019 was pending before the Principal District Court, Namakkal. The said writ petition was dismissed on 11.02.2020 with the following observations:-

"4. Since the auction has been fixed at 11.00 a.m. on 12.02.2020 (tomorrow), the Petitioner may request to take up C.M.A.No.9 of 2019 before the Principal District Court, Namakkal, who shall after affording full opportunity of hearing to the parties, dispose the same on merits and in accordance with law, and if it is not possible to take up that appeal for final disposal immediately for any genuine reasons to be recorded in writing, it is expected that atleast the application for interim stay in I.A.No.2 of 2019 would be taken up for consideration. In such circumstances, the Respondents shall defer any confirmation of sale in the proposed auction till orders are passed in that application.

5. Accordingly, the Writ Petition is dismissed as withdrawn granting such liberty. Consequently, the connected Miscellaneous Petition is closed. No costs."

3. It appears the petitioner's civil miscellaneous appeal was dismissed for default on 26.11.2020. Meanwhile, the respondents had issued the Impugned Sale Notice for the second time on 29.10.2020, which is challenged in this writ petition.



4. The learned counsel for the petitioner submits that though the civil miscellaneous appeal was dismissed for non-appearance on 26.11.2020, steps have been taken to restore the appeal and therefore submits that pending disposal of the application for restoration of the CMA, the status quo as on date should be allowed to continue.

5. Opposing the prayer, the learned Special Government Pleader for the first and second respondents would submit that the petitioner has caused the loss to an extent of Rs.8.5 crores to the society and that the society is at the verge of being closed as the present order has come in the way of liquidating the assets which are available with the petitioner, which appears to have been purchased out of the proceeds of the society.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the first and second respondents and the learned counsel for the third respondent.

7. It is noticed that on 07.12.2020, this Court has granted an interim order with a direction that the auction shall not be finalised until further orders are passed. The Impugned Sale Notice itself has come to an end and nothing survives for adjudication in the present writ petition.

8. Therefore, the respondents can only issue a fresh notice for proceeding further with the sale of assets by issuing a fresh notice to the petitioner.

9. Considering the fact that the petitioner has also made an attempt to revive the civil miscellaneous appeal which was dismissed on 26.11.2020, I am inclined to dispose this writ petition by giving liberty to the respondents to initiate further proceedings for a period of thirty days from the date of receipt of a copy of this order. Meanwhile, it is open for the petitioner to take steps for reviving the C.M.A.No.09 of 2019. In case, no further steps have taken for restoring the CMA, the respondents are at liberty to proceed against the property of the petitioner by issuing a fresh notice.



10. This Writ Petition stands disposed of with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The District Registrar/Deputy Registrar of
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Office of the Co-operative Societies
Deputy Registrar,
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3. The Chairman,
S.1067, Jameen Elampalli Primary Agricultural
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Jameel Elampalli (Post),
Paramathi Velur Taluk,
Namakkal District - 637 201.

+1cc to M/s.R.Marudhachalamurthy, Advocate, S.R.No.34829

+1cc to Mr.R.Bala Ramesh, Advocate, S.R.No.35163

+1cc to the Government Pleader, S.R.No.35534

W.P.No.18081 of 2020
and W.M.P.No.22467 of 2020

RLD(CO)
UMA(30/06/2022)