



WEB COPY



W.P.No. 26909 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.10.2022

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THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

W.P.No.26909 of 2022 &
WMP.No.26111, 26113 & 26114 of 2022

V. Ravi

...Petitioner

Vs.

1.The Deputy Registrar of Co-Operative Societies

Sankari Region, Sankari

Salem District-637 301.

2.The Cooperative Sub Registrar/Sale Officer

S.455, Morur Primary Agricultural

Co-operative Credit Society

Mayileripatti, Vengipalayam Post

Sangagiri Taluk, Salem District.

3.The President

S.455, Morur Primary Agricultural

Co-operative Credit Society

Mayileripatti, Vengipalayam Post

Sangagiri Taluk, Salem District.

...Respondents

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, to issue a Writ of certiorarified mandamus calling for the records relating impugned notification of auction sale published in Daily Thanthi dated 28.09.2022 issued by the 2nd respondent and quash the same and consequently direct the respondents not to conduct the auction sale on 02.11.2022 or on any subsequent dates until the disposal of the Statutory appeal in C.M.A.(CS). No. 35 of 2021 filed under Section 152 of the Tamil Nadu Cooperative Societies Act 1983 on the file of Learned Principal District Judge (Special Tribunal for Cooperative Cases) Salem.



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For Petitioner : Mr.R.Balaramesh
For Respondents : Mr.R.U.Dinesh Rajkumar [R1 & R2]
Additional Government Pleader
: Mr.J.C.Durai Raj [R3]
Additional Government Pleader

ORDER

Read this order in conjunction with order dated 06.10.2022 reading as follows:

Mr.J.C.Durairaj, learned Additional Government Pleader takes notice for 2nd respondent.

2. Notice to respondents 1 and 3 through court as well as privately returnable by 28.10.2022.

3. The petitioner has challenged the impugned notification of auction sale dated 28.09.2022 bringing his property for auction no 02.11.2022 at 11.00 a.m.

4. The specific case of the petitioner is that the petitioner had suffered Surcharge Award dated 27.04.2020 at the hands of the 1st respondent, against which, the petitioner has filed CMA(CS) No.35/2021 before the learned Principal District Judge (Special Tribunal for Co-operative Cases), Salem.

5. It is the grievance of the petitioner that pending disposal of the above appeal, the 2nd respondent has proposed to auction his property, even



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though, he has already paid a sum of Rs.30,98,046/- against the total loss of Rs.43,59,139/- as confirmed by the Surcharge proceedings which is under challenge before the aforesaid Tribunal.

6. Learned counsel for the petitioner submitted that apart from the petitioner, three other persons, namely, Tvl.C.Siddeswaran, M.Rajendran and K.Mathaiyan also have been jointly or severally held liable for the alleged loss caused to the society.

7. Considering the fact that substantial portion of the amount due has already been repaid, I am inclined to direct the respondents to report on the next date of hearing as to whether any other proceedings have also been initiated against the other three persons for bringing their properties to auction sale.

8. List this case on 28.10.2022.

2. The petitioner has challenged auction sale dated 28.09.2022 proposing an auction on 02.11.2022. Admittedly, the petitioner has filed a statutory appeal in C.M.A.(CS).No.35 of 2021 in terms of Section 152 of the Tamil Nadu Cooperative Societies Act, 1983, which is pending before the learned Principal District Judge (Special Tribunal for Cooperative Cases) Salem.



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3. Inter alia, learned counsel for the petitioner states that the Tribunal has also been approached for interim relief. Both appeal and application for interim relief are stated to be pending. The case details would show that the matter has been heard on 02.11.2021, 30.11.2021, 17.01.2022, 18.02.2022, 29.03.2022, 07.06.2022, 19.07.2022, 24.08.2022, 22.08.2022 & 18.10.2022 before the Tribunal. The last hearing was on 18.10.2022.

4. In such circumstances and seeing as the petitioner has, in fact, approached the Tribunal for interim protection, it is appropriate that that application for interim relief be pursued before the Tribunal. The present writ petition cannot be entertained as it is not maintainable in light of the application as above.

5. The petitioner is at liberty to move the interim application and such application, if filed, shall be considered bearing in mind the facts and circumstances arising in this case. This writ petition is dismissed. Connected miscellaneous petitions are closed. No costs.

31.10.2022

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Index : Yes/No

Speaking Order/Non speaking Order

To



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