



W.P(MD)No.6834 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6834 of 2019

and

W.M.P(MD)Nos.5455, 5456 &10193 of 2019

N.Vasantha

... Petitioner

Vs

1.The Registrar of Co-operative Societies,
E.V.R.Periyar Road,
Kilpauk, Chennai – 10.

2.The Deputy Registrar of Co-operative Societies,
Anna Vasal Road,
Pudukottai, Pudukottai District.

3.The President,
M.M.397, Vaithur Primary Agriculture
Co-operative Credit Societies,
Vaithur, Kulathur Taluk,
Pudukottai District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order issued in C.E.P.No.3/2015-16 dated 22.06.2015 and quash the same and consequently direct the third respondent not to make any encumbrance on the property of the petitioner.



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For Petitioner : Mr.S.Sarvagan Prabhu

For Respondents : Mr.A.Baskaran
Additional Government Pleader for R.1 & R.2

No appearance for R.3

ORDER

Heard the learned counsel on either side.

2.The petitioner's husband was working as Secretary of the third respondent Society. He is alleged to have committed misappropriation. Therefore, the third respondent initiated proceedings for recovery. The second respondent attached three items of property at the instance of the third respondent. It is seen that the third item belongs to the writ petitioner.

3.The issue on hand is no longer res integra. A learned Judge of this Court in the decision reported in **2009 (6) CTC 765 (R.Karuppusamy v. The Regional Manager, Tamil Nadu Cooperative Marketing Federation, Coimbatore and Others)** held as follows :

“23.Now, it is not in dispute that the lower Appellate Court came to the conclusion that the Sec.90 proceedings were not properly conducted by the Deputy Registrar and the principles of natural justice were flouted. Therefore, the matter was remanded to the Deputy Registrar for fresh disposal. If that being so, I am of the considered view that by way of interim attachment, the property of the revision petitioner in C.R.P.No.



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721 of 2008 could not be attached and the same is to be released. Unless and until it is proved that the revision petitioner's property was acquired only by using the money siphoned of from the Federation, it is not possible to attach the property of the revision petitioner in C.R.P.No.721 of 2008, the wife of the transport Contractor as the same is standing in her name and not in the name of her husband/the transport Contractor. Therefore, while upholding the attachment of the Deputy Registrar, attaching the property standing in the name of the revision petitioner in C.R.P.Nos.720 and 722 of 2008, I am setting aside the orders of the Deputy Registrar and the lower Appellate Court, in so far as the attaching the property of the wife/the revision petitioner in C.R.P.No.721 of 2008.”

Respectfully applying the aforesaid decision, I hold that the respondents could not have attached the property belonging to the writ petitioner. While attachment of the petitioner's husband's property will hold good, the attachment made against the writ petitioner's property is set aside.

4.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
MGA/SKM



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G.R.SWAMINATHAN, J.

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