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W.P.(MD)NO.15054 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.15054 to 15059 of 2022 and
W.M.P.(MD)Nos.10771 to 10776 of 2022

Amutha	... Petitioner in W.P.(MD)No.15054 of 2022
Gajendran	... Petitioner in W.P.(MD)No.15055 of 2022
Natarajan	... Petitioner in W.P.(MD)No.15056 of 2022
Rajeswari	... Petitioner in W.P.(MD)No.15057 of 2022
Krishnan	... Petitioner in W.P.(MD)No.15058 of 2022
Balakrishnan	... Petitioner in W.P.(MD)No.15059 of 2022

Vs.

1. The Government of Tamil Nadu,
By its Secretary,
Corporation and Consumer Protection Department,
Secretariat,
Chennai.
2. The Joint Registrar,
Co-operative Societies,
Mannarpuram,
Trichy.



3. The Deputy Registrar,
Co-operative Societies,
Lalgudi.

4. R.939 Thatchankurichi,
Primary Agriculture Co-operative Credit Society,
Rep. By its Secretary,
Lalgudi Taluk,
Trichy District.

... Respondents
in all W.Ps.

Common Prayer: Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the third respondent from conducting public auction on 15.07.2022 on the petitioners' property in E.P.No.1 of 2022 Na.Ka.No.1057 of 2020 Ve.Se.Se till the disposal of the CMA.CS. pending on the file of the Principal District Court, Tiruchirappalli against the order dated 22.02.2022 and to set aside the proceedings in Na.Ka.No.1057 of 2020 Ve.Se.Se of the third respondent.

(in all W.Ps.)

For Petitioners : Mr.S.Muthukrishnan

For Respondents: Mr.M.Senthil Ayyanar,
Government Advocate.

* * *

**COMMON ORDER**

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Heard the learned counsel on either side.

2. The petitioners were the members of the Board of Directors of the fourth respondent society. Their tenure was from 06.08.2018 to 17.06.2021. According to the respondents, financial irregularities took place between 01.04.2019 and 31.12.2019. Hence, surcharge proceedings were initiated under Section 87 of the Tamil Nadu Co-operative Societies Act. Surcharge order was passed by the third respondent on 22.02.2021. The proceedings were initiated against as many as 16 persons. They were directed to pay a sum of Rs.1,55,11,538/-. They were made jointly and severally liable. Even though the surcharge order was passed way back on 22.02.2021, for reasons best known, the petitioners herein did not question the same by filing an appeal before the Co-operative Tribunal. Only after the execution petition was filed and the petitioners' property was brought to public action, the petitioners appear to have woken up and filed CMA.CS.SR.Nos.7236 of 2022 and 7746 of 2022 before the Co-operative Tribunal / Principal District Judge,



Tiruchirappalli. Since the auction is to be held tomorrow, the present writ petitions came to be filed.

3. The writ petitions strictly are not maintainable. It has been held by the Hon'ble Supreme Court in the decision reported in ***AIR 1952 SC 12 (State of Orissa v. Madangopal Rungta)*** that the final relief to be granted under Article 226 of the Constitution of India cannot be in the name of interim relief. In this case, the petitioner wants this Court to restrain the respondents from conducting the petition mentioned auction till the disposal of the appeal filed by the petitioners. Even though I am more than satisfied that the writ petitions are not maintainable, considering the special facts and circumstances and the undertaking given by the writ petitioners, I am of the view that some relief can be granted to the petitioners herein.

4. It is stated that the expenses incurred by the fourth respondent society for bringing the property to auction would come to Rs.60,000/- and the counsel's fee would come to Rs.15,000/- (Total Rs.75,000/-). The petitioners undertake to



take a demand draft for a sum of Rs.75,000/- (Rupees Seventy Five Thousand only) and hand over the same to the fourth respondent by 14.07.2022. If the petitioners fail to remit the amount of Rs.75,000/-, the auction can go on as scheduled. The petitioners also agree to pay a further sum of Rs.50,000/- (Rupees Fifty Thousand only) each to the fourth respondent within a period of two weeks from the date of receipt of a copy of this order. If the petitioners comply with the said undertaking, the Co-operative Tribunal is directed to number the condone delay petitions and also allow the same. The Co-operative Tribunal is also directed to dispose of the civil miscellaneous appeals filed by the petitioners on merits and in accordance with law within a period of two months thereafter.

5. With this direction, these writ petitions stand disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

12.07.2022

Index : Yes / No
Internet : Yes/ No

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G.R.SWAMINATHAN,J.

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To:

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By its Secretary,
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