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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.17552 of 2022

and

WMP(MD)No.12777 of 2022

E.Marimuthu

... Petitioner

v.

1.The District Registrar cum Deputy
Registrar of Cooperative Societies,
Tenkasi Circle, Tenkasi District.

2.The President,
O.1919 Tenkasi Senkottai Taluk
Cooperative Marketing Society,
Tenkasi, Tenkasi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records pertaining to the impugned proceedings issued by the first respondent in Ni.Ma.O.28 of 1998-99 dated 22.07.2022 and quash the same as illegal and unconstitutional.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

**ORDER**

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Heard the learned counsel on either side.

2. An order of attachment passed under Section 167(1) of the Tamil Nadu Cooperative Societies Act, 1983 is under challenge. Even before commencing his arguments, the learned counsel for the petitioner submitted that the petitioner would not alienate or encumber the property till the surcharge proceedings attained finality. The impugned order of attachment is challenged primarily on the ground that the first respondent did not pass any order calling upon him to furnish security. My attention is drawn to the order dated 15.03.2017 in WP No.23615 of 2016. A learned Judge of this Court held that an order of attachment cannot be straightaway passed. It should be preceded by a direction calling upon the noticee to furnish security. In this case, such a direction has not been passed. Hence, the impugned order is set aside. The first respondent is directed to pass orders afresh in accordance with law.

3. The writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

12.08.2022

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G.R.SWAMINATHAN, J.

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and
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