



W.P(MD)No.19456 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19456 of 2022

and

W.M.P.(MD)Nos.14199 and 14200 of 2022

R.Murugesan

... Petitioner

Vs.

1.The Joint Registrar/Managing Director,
Virudhunagar District Central Co-operative Bank Limited,
Virudhunagar.

2.The Deputy Registrar of Cooperative Societies,
Arupukottai,
Virudhunagar District.

3.The General Manager,
R.K.10, Virudhunagar District Central
Co-operative Bank,
Virudhunagar District.

4.The Sub Registrar,
Office of the Sub Registrar,
Aruppukottai,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the order passed by the 2nd respondent in his proceedings



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C.E.P. No.1/2022-23/S.F. (2) dated 20.04.2022 and to quash the same and consequently direct the respondents to raise the Attachment Before Judgement within a time frame as may be fixed by this Court.

For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondents : Mr.D.Shanmugarajasethupathi,
Standing Counsel for R1 & R3.
Mr.M.Senthil Ayyanar,
Government Advocate for R2 & R4.

ORDER

Heard the learned counsel on either side.

2.The petitioner's brother/Ramachandran is employed as Secretary in-charge of a society. The said society comes under the control of the third respondent. Surcharge proceedings are said to be pending against him. Therefore, the impugned attachment order came to be passed by the second respondent. Challenging the same, this writ petition has been filed.

3.There is no dispute that there is no proceedings against writ petitioner. The property which has been attached by the impugned order is a joint family property. As result of the impugned attachment order, the petitioner's rights have also been seriously infringed. This is clearly illegal and patently without



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jurisdiction. The second respondent could have only attached the share of the delinquent in the joint family property and not beyond that. Therefore, even while setting aside the impugned order and remanding the matter to the file of the second respondent, the second respondent is permitted to issue a fresh attachment order confining the same to the share of the delinquent in the joint family property.

4. With this liberty to the second respondent, the writ petition is allowed.

No costs. Consequently, connected miscellaneous petitions are closed.

24.08.2022

Index : Yes / No
Internet : Yes/ No
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To:-

1. The Deputy Registrar of Cooperative Societies,
Arupukottai,
Virudhunagar District.

2. The Sub Registrar,
Office of the Sub Registrar,
Arupukottai,
Virudhunagar District.



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G.R.SWAMINATHAN, J.

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