



W.P(MD)No.25963 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25963 of 2019

and

W.M.P.(MD)No.22479 of 2019

G.Meenambal

... Petitioner

Vs.

1.The Regional Deputy Registrar (Housing),
Samathu Palli Street,
Kajamali Post, Trichy.

2.M.M. 124 Karur Cooperative Housing Society,
Rep. by its Secretary,
R.Ravi (Incharge),
Rajee Gandhi Nagar,
Vengamedu,
Karur – 639 006.

3.The Sub Registrar,
Karur (West),
O/o. Sub Registrar,
Hospital Road,
Karur.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned notice made in



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C.E.P.No.1/2016-2017/Na.Ka.No.532/2016 Sa.Pa(1) dated 24.6.2016 and consequential order made in C.E.P.No.1/2016-2017/Na.Ka.No.532/2016 Sa.Pa. (1) dated 28.6.2016 passed by the 1st respondent and quash the same and consequently direct the 3rd respondent to delete the encumbrance made by the 1st respondent against the petitioners property bearing Document No.6611/2009 and 9809/2011 on the file of the Sub Registrar, Mela Karur, Karur District.

For Petitioner : Mr.P.R.Prithviraj

For Respondents : Mr.N.Ramesh Arumugam,
Government Advocate for R1 & R2.
Mr.S.Shanmugavel,
Addl. Government Pleader for R3.

ORDER

Heard the learned counsel on either side.

2.The petitioner questions the impugned order of attachment made by the first respondent. The second respondent had filed claim petition under Section 90 of the Tamilnadu Cooperative Societies Act on the file of the first respondent. The petitioner is not figuring as a party in the said claim petition. The petitioner's husband/Neduncheliyan is figuring as a party. More than anything else, the property that has been attached belongs to and is in the name



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of the writ petitioner. Two issues arise for consideration. Whether the first respondent could have even issued notice to the writ petitioner and secondly whether he could have attached the petitioner's property.

3. When the petitioner is not even party to the claim petition, I fail to understand as to how the first respondent could have issued notice to the petitioner. The petitioner is not an employee of the second respondent society. It is only her husband who is the employee. The petitioner has not guaranteed any of her husband's loan transaction. The petitioner is not a delinquent. Therefore, by no stretch of imagination, the petitioner's property could have been attached. The learned counsel for the petitioner draws my attention to the decision reported in **2009 (6) CTC 765 (R.Karuppusamy v. The Regional Manager, Tamil Nadu Cooperative Marketing Federation, Coimbatore and Others)**. Paragraph No.23 of the said order reads 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.721 of 2008 could not be attached and the same is to be released. Unless and until it is proved that the revision



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petitioner's property was acquired only by using the money siphoned off 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.”

4.The approach adopted in the above case can very well be adopted in the present case also. The first respondent had no material before him to conclude that the property of the petitioner was acquired out of ill-gotten wealth. Looked at from any angle, the impugned notice as well as the impugned attachment order cannot be sustained. They are patently lacking in jurisdiction. Therefore, they are set aside and the writ petition is allowed. Since the primary order of attachment has been set aside, the third respondent is directed to delete the attachment from the encumbrance register also. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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