



W.A.No.670 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2023

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.A.No.670 of 2023

O.K.Kumar

.. Appellant

Vs

1.The Deputy Registrar,
Registrar Office of Co-operative Societies,
Omalur Region, Omalur,
Salem District.

2.The Special Officer,
S.M.81 Omalur Urban Co-operative Bank,
Mettur Main Road,
Omalur, Salem District.

3.The Sale Officer,
O/o. The Deputy Registrar of Co-operative Societies,
Omalur Circle, S 777, Nangavalli PACCS Ltd.,
Nangavalli, Nangavalli (Post) – 636 454
Mettur Taluk, Salem District.

.. Respondents

Prayer: Appeal under Clause 15 of the Letters Patent against the order dated 16.11.2022 passed by the learned Single Judge in W.P.No.30461 of 2022.



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For the Appellant : Mr.R.Marudhachalamurthy

For the Respondents : Mr.P.Balathandayutham
Spl. Government Pleader

JUDGMENT

(Delivered by the Hon'ble Acting Chief Justice)

The unsuccessful writ petitioner has filed this writ appeal challenging the order dated 16.11.2022 passed by the learned Single Judge in W.P.No.30461 of 2022, whereby costs assessed at Rs.25,000/- were imposed on the appellant while dismissing the writ petition.

2. Learned counsel appearing for the appellant would submit that the appellant suffered the proceedings under Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 and an order was passed in Na.Ka.No.7930/2005-SaPa on 23.10.2008 by the first respondent adverse to the appellant. Assailing the said order, the appellant filed an appeal before the learned Principal District Judge, Salem, in C.M.A.CS.No.18 of 2009, which was dismissed on



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26.6.2018 by confirming the order passed by the first respondent.

Challenging the said order, the appellant filed W.P.No.5177 of 2019 and a learned Single Judge of this Court, by order dated 25.2.2019, directed the appellant to pay 50% of amount stated in the order passed by the first respondent. The appellant for reasons beyond his control did not comply with the said conditional order. In paragraph (5) of the affidavit filed in support of W.P.No.30461 of 2022, the appellant had stated about the filing of W.P.No.5177 of 2019 and its pendency. However, he pleaded that the learned Single Judge erroneously concluded that the appellant had willfully withheld and suppressed a vital fact that the appellant had not complied with the conditional order dated 25.2.2019 and, therefore, dismissed the writ petition by imposing costs.

3. It is further submitted that even though the appellant had submitted his objection on 9.11.2022 under Rule 135 of the Tamil Nadu Cooperative Societies Rules to the order of attachment dated 23.9.2022 and the consequential sale notice dated 14.10.2022, the first respondent did not consider the same and, therefore, the



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appellant is entitled to maintain the writ petition filed to set aside the attachment order and the consequential sale notice. He pleaded that this aspect has been completely overlooked by the learned Single Judge.

4. Learned counsel for the appellant further submitted that in this appeal he is only questioning the costs imposed by the learned Single Judge while dismissing the writ petition.

5. We are unable to find any merit or justification in the submissions made by learned counsel for the appellant. It is not in dispute that challenging the order passed by the Principal District Judge, Salem, dated 26.6.2018, the appellant had filed W.P.No.5177 of 2019. In the said writ petition, by order dated 25.2.2019, the learned Single Judge directed the appellant to deposit 50% of the amount as stated in the order dated 23.10.2008 passed by the first respondent. However, the appellant failed to comply with the said order. The appellant, in the affidavit filed in support of W.P.No.30461 of 2022, has stated in paragraph (5) that



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W.P.No.5177 of 2010 is still pending consideration. However, the fact that the appellant did not comply with the conditional order passed by the learned Single Judge has not been disclosed. Therefore, the learned Single Judge observed that the appellant had approached this court with incomplete disclosures and there is a conscious intention to suppress the facts. Consequently, the learned Single Judge imposed costs assessed at Rs.25,000/- by observing that the appellant has to seek relief in W.P.No.5177 of 2019, which is pending.

6. We do not find any infirmity in the order passed by the learned Single Judge. The subsequent action initiated by the respondent authorities in view of the non-compliance of the conditional order dated 25.2.2019 passed in W.P.No.5177 of 2019 by the learned Single Judge cannot be questioned on the ground that the appellant is still entitled to give his objection without complying the order. In any event, the appellant can workout his remedy in the pending W.P.No.5177 of 2019.



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For the foregoing reasons, the writ appeal is dismissed. There will be no order as to costs. Consequently, C.M.P.No.6709 of 2023 is closed.

(T.R., ACJ.) (D.B.C., J.)
24.03.2023

Index : No
Neutral Citation : No
sasi

To:

- 1.The Deputy Registrar,
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