



WEB COPY

W.P.No.7043 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 06.03.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.7043 of 2023
and WMP No.7120 of 2023

K.Chellapillai

... Petitioner

Vs.

1. The Secretary to Govt.,
Animal Husbandry, Diaries & Fisheries Dept.,
Fort St. George, Chennai – 9.
2. The Commissioner of Milk Production and
Diary Development,
Madavaram Milk Colony, Chennai – 51.
3. The Deputy Registrar (Diary),
Perambalur, Perambalur District.
4. The Management of TRD 917 Sirukudal
Milk Producers Co-op. Society Ltd.,
rep. by its President, Sirukudal Post,
Kunnam Taluk, Perambalur District.
5. M.K.Rajendran
6. D.Nagarajan
7. P.Ramalingam
8. The Sale Officer/Senior Inspector (Diary)
Deputy Registrar (Diary),
Perambalur, Perambalur District.

.... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to impugned order in EP No.01/2022-23 dated 13.12.2022 passed by the 3rd respondent and consequent impugned proceedings in Na.Ka.No.1409/2022/E3 dated 30.01.2023 and consequent impugned notices of Form-8 in Ni.Ve.Ma.No.01/2022-23 dated 30.01.2023 and Form-9 in



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Ni.Ve.Ma.No.01/2022-23 dated 30.01.2023 issued by the 3rd respondent herein and quash the same as being illegal, arbitrary, unconstitutional.

For Petitioner : Mr.T.Sundaravadanam

For Respondents : Mr. Sajeew Kumar
Special Government Pleader
– R1 to R4 & R8

ORDER

Mr.Sajeew Kumar, learned Special Government Pleader accepts notice for R1 to R4 and R8 and is armed with instructions to proceed with the matter even at the stage of admission. In light of order that is now proposed to be passed, no notice is thought necessary to R5 to R7, being private respondents.

2. The petitioner claims to have been nominated as a Director and elected as a President on 09.05.2013 of TRD 917, Sirukudal Milk Producers Cooperative Society. The present challenge is as against the order of attachment of various properties set out in the schedule to attachment order dated 13.12.2022. This order is a consequence of a surcharge order that was passed as against the petitioner on 24.06.2022 in terms of Section 87 of the Tamil Nadu Cooperative Societies Act, 1983 (in short 'Act').

3. There is a statutory appeal provided for in terms of Section 152 of the Act. The appeal is to be preferred within 60 days from date of communication of the impugned order. However, the second limb of Section 152(3) provides for the admission of appeal even beyond 60 days, if the appellate authority were satisfied that there was sufficient cause for the



intervening delay.

4. In the present case, though the order was passed on 24.06.2022 and was also served on a date proximate to the aforesaid date, the appeal has only before the Principal District Judge, Perambalur (in short 'Tribunal') been filed in January, 2023 with a delay. A petition for condonation of delay in I.A.No.2 of 2023 has been filed and the petitioner is also stated to have filed an application for interim protection.

5. In the aforesaid circumstances, I am of the considered view that the balance of convenience would require that the appellate authority consider the request for condonation and, if convinced with the prayer for condonation, for interim relief as well, as expeditiously as possible. In the interim, the impugned order of attachment will be kept in abeyance.

6. Thus, the Writ Petition is disposed with the following directions:

(i) The Tribunal shall hear I.A.No.2 of 2023 within a period of eight (8) weeks from date of receipt of a copy of this order, after hearing the petitioner.

(ii) If convinced with the explanation for delay and if the same is disposed by the Tribunal, in accordance with law and in favour of the petitioner, the application for interim protection shall be taken up immediately thereafter, heard and orders passed in accordance with law within a period of two (2) weeks from date of the delay being condoned.



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(iii) The impugned order shall be kept in abeyance for a period of ten (10) weeks or till the delay application is disposed, whichever is earlier.

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7. No costs. Connected Miscellaneous Petition is closed.

06.03.2023

Index:Yes/No

Speaking order

Neutral Citation : Yes/No

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To

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