



W.P.No.11402 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11402 of 2023

and

W.M.P.No.11305 of 2023

C.Niraimathi

... Petitioner

vs.

1. The Sub Registrar,
Sub Registrar Office,
Pethanayakkanpalayam,
Salem District 636109.

2. The Deputy Registrar of Co-operative Societies,
Attur Circle, Attur,
Salem District 636 108.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records of the 1st Respondent pertaining to the refusal check slip dated 28.03.2023 issued by the 1st Respondent in refusal No.RFL Pethanaickenpalayam /4 / 2023 dated 28.03.2023 for the registration of the



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undivided 1/2 share of land comprised in S.No.293/2 and in S.No.488 situated in Kovilputhur village, pethanaickenpalayam Taluk, Salem District and quash the same and consequently direct the 1st Respondent to register the sale deed dated 15.12.2022 presented by the petitioner with regard to the remaining undivided 1/2 share of the property in S. NO. 493 / 2-90 cents out of 1.80 cents and in S.No. 488 – 1.49 acres out of 2.98 acres which is more particularly described in the sale deed dated 15.12.2022 presented by the petitioner on 28.03.2023.

For Petitioner : Mr.S.William

For Respondents : Mr.D.Ravichander, Spl.G.P.

ORDER

The refusal check slip dated 28.03.2023 issued by the first respondent is sought to be quashed in the present writ petition.

2.The writ petitioner states that she is the absolute owner of the property described in the present writ petition. She purchased the subject property in the year 1986. The petitioner is in need of money for her family and medical expenses and decided to sell a portion of the property and accordingly, presented a sale deed for registration. However, in the



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encumbrance certificate, the order of attachment made by the second respondent has been entered and therefore, the registering authority refused to register the document presented by the petitioner.

3.The learned counsel for the petitioner mainly contended that the petitioner has decided to sell a portion of the property and therefore, the order of refusal is untenable. It is clarified that the undivided portion of the share belonging to the petitioner alone is sought to be dealt with and thus, there is no impediment for registering the document.

4.The learned Special Government Pleader raised an objection by stating that the order of attachment is made under the provisions of the Tamil Nadu Cooperative Societies Act, 1983. The competent authority/ Deputy Registrar of Cooperative Society in a suit instituted to recover the financial loss occurred to the cooperative society attached property. Thus, there is no infirmity in respect of the refusal check slip issued by the first respondent.

5.The learned counsel for the petitioner contended that the attachment was made in respect of the alleged financial loss caused in the



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society at the instance of the petitioner's husband who is working as a Secretary in the Cooperative Society. However, the competent authorities under the provisions of the Tamil Nadu Cooperative Societies Act is empowered to attach the properties belonging to the family members of the employees, in order to ensure that the financial loss caused to the society is recovered and settled in favour of the members.

6. When the power has been conferred under the provisions of the Tamil Nadu Cooperative Societies Act to attach the properties belonging to the family members, the option left open to the petitioner is to raise the attachment and thereafter alienate the property in the manner known to law. Verification of the survey number would reveal that the property which is the subject matter of the document presented by the petitioner before the first respondent is attached by the second respondent.

7. The property attached under the provisions of the Special Act cannot be dealt with by the family members and therefore, the petitioner is at liberty to raise the attachment by approaching the second respondent and thereafter deal with the property in the manner known to law.



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WEB COPY 8. With these observations, the writ petition stands **dismissed**.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)

03.07.2023

Index : Yes

Speaking Order

Neutral Citation : Yes

To

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Salem District 636109.
2. The Deputy Registrar of Co-operative Societies,
Attur Circle, Attur,
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S.M.SUBRAMANIAM. J.,

(sha)

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