



W.P.No.14782 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.14782 of 2023

P.Mathesh

... Petitioner

VS.

1.The Registrar,
Tamilnadu Co-Operative Society,
No.170, E.V.R.Road,
Dr.Radhakrishnan Nagar,
SBI Officers Colony,
Arugambakkam,
Chennai – 600 106.

2.The Deputy Registrar,
Deputy Registrar Office of Co-Operative Societies,
Omalur Circle, Omalur
Salem District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 2nd respondent to execute the sale deed in favour of the petitioner and to consider the representation dated 23.03.2023.



W.P.No.14782 of 2023

For Petitioner : Ms.S.Sadhana

For Respondents : Mr.N.Naveenkumar
Government Advocate

ORDER

The petitioner herein seeks a direction to the 2nd respondent to execute the Sale Deed in his favour by considering his representation dated 23.03.2023.

2. The petitioner is an auction purchaser of immovable property auctioned by 2nd respondent in CEP.No.1/2016-2017. It is stated that S.777, Nangavalli Primary Agricultural Co-operative Credit Society Limited, Mettur Taluk, Salem District is a registered Co-operative Society under the Tamil Nadu Co-operative Societies Act, 1983 and the Society's fund to the tune of Rs.3,63,38,199/- said to have been misappropriated by erstwhile Secretary and seven other employees. In this regard, an surcharge order was passed by the 2nd respondent against those delinquent employees. In the execution petition filed by the Society, the immovable properties of the delinquent employees were brought for sale and the petitioner participated in open auction conducted by the 2nd respondent and purchased the property



W.P.No.14782 of 2023

comprised in S.No.106/2C5 in Surapalli Village, Mettur Taluk, Salem District with an extent of 10347 $\frac{3}{4}$ sq.ft. The petitioner purchased the above said property in open auction for a sum of Rs.79,80,000/- and the entire bid amount has been paid by the petitioner as early as 21.08.2021. The 2nd respondent also issued a Sale Certificate in favour of the petitioner.

3. Apart from the above said amount, the petitioner also paid a sum of Rs.15,00,240/- as poundage charge. It is the case of the petitioner that though the property was described as a land with an extent of 10347 $\frac{3}{4}$ sq.ft., on ground only 8643 sq.ft is available and hence, the petitioner submitted a representation on 23.03.2023 requesting the 2nd respondent to execute the Sale Deed in respect of 8643 sq.ft., and refund the balance amount. The said representation has not been considered by the 2nd respondent and therefore, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner purchased the above said property in open auction conducted by the 2nd respondent in execution proceedings and the entire bid amount has been paid by the petitioner. In such circumstances, the 2nd respondent is under



W.P.No.14782 of 2023

obligation to execute the Sale Deed.

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5. Mr.N.Naveenkumar, learned Government Advocate appearing for the respondents submitted that the 2nd respondent is ready to execute the Sale Deed, if the petitioner is prepared to pay the entire stamp duty and registration fees (11% of the value) which would come to Rs.8,77,800/- and poundage charge of Rs.95,760/- to the Decree Holder.

6. The learned counsel appearing for the petitioner submits that the petitioner is ready to pay the poundage charge to the Decree Holder and the petitioner is also ready to bear the stamp duty as well as registration fees. The statement made by the learned counsel for the petitioner is recorded.

7. In view of the submission made by the learned counsel for the petitioner that the petitioner is ready to bear the registration charges and stamp duty required for execution of Sale Deed in his favour, this Court is inclined to direct the petitioner to pay poundage charge of Rs.95,760/- to the Decree Holder namely S777, Nangavalli Primary Agricultural Co-operative Credit Society, Nangavalli, Mettur Taluk, Salem District within a period of



W.P.No.14782 of 2023

four weeks from the date of receipt of copy of this order and produce the receipt issued by the said Society before the 2nd respondent. On production of receipt for payment of poundage charge, the 2nd respondent shall execute Sale Deed in respect of the property purchased by the petitioner in open auction sale, within a period of four weeks thereafter. Since the petitioner undertook to bear the expenses for stamp duty and registration fees, no direction need to be issued to the petitioner to pay the amount to the 2nd respondent.

8. The learned counsel for the petitioner requested this Court to pass necessary orders to direct the 2nd respondent to survey the land and refund the proportionate sale consideration in case there is any deficit in the extent of the property. The learned counsel for the 2nd respondent submits that surveying of the property will be done after execution of the Sale Deed.

9. Accordingly, the 2nd respondent is directed to survey the property and hand over the possession of the property to the petitioner immediately on registration of the Sale Deed. In case, if there is any deficit in the extent of the property, it is always open to the petitioner to file an appropriate suit



W.P.No.14782 of 2023

against the 2nd respondent for recovery of the proportionate sale
consideration paid by him.

10. With these observations, the writ petition stands allowed. No
costs.

17.08.2023

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
dm



W.P.No.14782 of 2023

To

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W.P.No.14782 of 2023

S.SOUNTHAR, J.

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