



W.P.No.17265 of 2023

WEB COPY

Dated: 16.06.2023

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.17265 of 2023
and WMP Nos.16418 & 16419 of 2023

1.M.Karunanidhi
2.M.Vajravel
3.K.Manimegalai

... Petitioners

Vs

1.The Joint Registrar/Managing Director,
Dharmapuri District Central Co-operative Banl Ltd.,
Nethaji Bye-Pass Road, Dharmapuri 636 701.

2.The Regional Joint Registrar of Co-operative Societies,
Krishnagiri, Krishnagiri District.

3.The Deputy Registrar of Co-operative Societies,
Krishnagiri, Krishnagiri District.

4.The Sale Officer,
Co-operative Societies Registrar/Field Officer,
BDO Office, Kaveripattinam,
Krishnagiri District.

5.The President,
Veeramalai Primary Agricultural Co-operative Society.
Dharmapuri District.

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Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct respondents to



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consider the objection submitted by the petitioner dated 23.05.2023 as per Rule 135 of Tamil Nadu Cooperative Societies Rules, 1988, cosequent to the Sale Notice issued by the 4th respondent in Ni.Ma.No.03/2015-2016/sa.pa.2 dated 10.05.2023, within a time frame to be fixed by this Hon'ble Court.

For Petitioners : Mr.J.Jayamalan

For Respondents :Mr.K.V.Sajeev Kumar (for R1 to R4)
Special Government Pleader
Mr. C.S.M.Hasan Fizal(for R5)
Additional Government Pleader

ORDER

Read this order in conjunction with and in continuation of order dated 09.06.2023, that reads as follows:

Mr.K.V.Sajeev Kumar, learned Special Government Pleader accepts notice for R1 to R4 and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader accepts notice for R5 being the President, Veeramalai Primary Agricultural Co-operative Society, Dharmapuri District. They seek some time to obtain instructions and file counters.

2. P1 in this Writ Petition had suffered surcharge proceedings under the provisions of the Tamil Nadu Coopertive Societies Act, 1983 and had challenged the same by way of Writ



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Petition in W.P.No.37033 of 2015, which came to be dismissed for default on 20.06.2017.

3. *P1, it is stated, was unaware of the dismissal of that Writ Petition.*

4. *While this is so, the properties of P1, and P2 & P3 who are stated to be the family members of P1, came to be attached as a measure of coercive recovery of the surcharge imposed. Proceedings for sale have now been taken, as against which the present Writ Petition is filed.*

5. *P1 has made an application on 23.05.2023 before the Sale Officer in terms of Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988, which is pending.*

6. *Mr.Sankaran, learned counsel for the petitioner submits that steps are being taken by the counsel on record for the petitioner in W.P.No.37033 of 2015 for restoration of that Writ Petition. This matter is adjourned by one week to enable necessary to be taken for restoration of W.P.No.37033 of 2015.*

7. *Since auction is slated on 12th June, 2023, let status quo be maintained till the next date of hearing.*



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8. R4, being Sale Officer, Co-operative Societies Registrar

will dispose application filed on 23.05.2023 prior to the next date of hearing, being 16.06.2023, for which purpose, the petitioners will appear before him on 12.06.2023 at 10.30. a.m., without expecting any further notice in this regard, failing which, adverse inference will be drawn. A copy of the order disposing the objections will be produced on the next date of hearing.

9. List on 16.06.2023 at the end of admission list.

Counters/written instructions by then with an advance copy served upon the petitioners.

2. Learned counsel for the petitioner states that steps have been taken for restoration of W.P.No.37033 of 2015 and W.M.P.No.19318 of 2023 has been filed seeking restoration. That is on the one hand. On the earlier occasion, a direction had been issued to R4 to hear the petitioner and pass orders on the objections under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988 (in short 'Rules').

3. Mr.Sajeev Kumar, learned Special Government Pleader appearing for R1 to R4 circulates a copy of order dated 12.06.2023, wherein, R4, after having heard the parties disposed the objections



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filed by the petitioner on the same day, adverse to the petitioner. The

order is stated to have been dispatched on 15.06.2023.

4. Learned counsel for the petitioner has no instructions in this regard, and has furnished with a copy of this order by the learned Special Government Pleader. The remedy as against order dated 12.06.2023 is by way of Civil Suit under Rule 135(3) of the Rules.

5. The petitioner's prayer in this Writ Petition is only for consideration of the objections under Rule 135 of the Rules. This objection has been addressed by way of order dated 12.06.2023.

6. Thus, and at request of learned counsel for the petitioner to enable the petitioner to take necessary steps, if he so desires, interim protection that had been granted at paragraph 7 of order dated 09.06.2023 shall continue for a period of four (4) weeks from today.

7. Upon conclusion of the period as aforesaid, the respondents are free to proceed with the action subject to any interim protection having been obtained by the petitioner in this regard before the Civil Court.

8. In light of the above, nothing further survives in this Writ Petition and the same is closed, as are the connected Miscellaneous Petitions. No costs.



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Index : Yes

Speaking Order

Neutral citation: Yes

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To

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Dr.ANITA SUMANTH,J.

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