



W.P.No.23115 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.23115 of 2021

and

W.M.P.Nos.24363, 24364 of 2021, 5663 of 2022 & 7222 of 2023

R.Venkatachalam

.. Petitioner

VS

- 1.The Registrar of Co-operative Societies,  
EVR Periyar Road,  
Kilpauk, Chennai – 600 010.
- 2.The Joint Registrar of Co-operative Societies,  
Salem Region, Salem.
- 3.The Deputy Registrar of Co-operative Societies,  
Salem Circle, Salem.
- 4.The President / Secretary,  
S.9787, K.KondappaNayakkanpatti,  
Primary Agricultural Co-operative Credit Society Ltd.,  
Salem.
- 5.The Sub-Registrar,  
Ayothi Pattinam Registrar Office,  
Salem.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for records on the file of the third respondent relating to the order issued in C.E.P.No.15/2019-2020 in A.R.C.No.8/2019-2020 dated 18.08.2020 and quash the same and consequently, direct the fifth respondent



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not to make any encumbrance on the attached properties of the petitioner.

For Petitioner : Mr.R.Chandrasekaran  
For Respondents : Mr.Murali  
Government Advocate  
for R1 to R3, R5  
Mr.M.Palaniswamy  
for R4

ORDER

All learned counsel, Mr.R.Chandrasekaran, for the petitioner, Mr.Murali, learned Government Advocate for R1 to R3, R5 and Mr.M.S.Palaniswamy, appearing for R4 / S.9787, K.KondappaNayakkanpatti, Primary Agricultural Co-operative Credit Society Limited (Society) would accede to the position that the issue that raised in this matter has already been considered by this Court earlier.

2. In the case of *E.Murugan and others vs The Registrar of Cooperative Societies, EVR Periyar Road, Chennai and others* [W.P.No.11143 – 11146 of 2015 dated 17.04.2005], a learned Judge of this Court had considered a similar matter wherein the petitioners therein had challenged orders of conditional demand under Section 167 of the Tamil Nadu Cooperative Societies Act, 1983 read with Rule 140 of the Tamil Nadu Cooperative Societies



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Rules, (Rules), though in violation of principles of justice. In that order, the learned Judge had, after studying the provisions of Section 167 as well as Rule 140, held as follows:-

*"9. A perusal of the impugned order would disclose that in terms of Section 167(1), no order has been passed calling upon the petitioners to furnish security in such sum and within such time as may be specified in such order and to produce and place at the disposal of the Registrar when required, the said property or such part thereof as may be sufficient for the execution of any decision or order aforesaid. Admittedly, the impugned order is dated 09.04.2015 and the petitioners were called upon to furnish security for the said sum on the very same date. According to the petitioners the notices were served on them by force on the very same date.*

*11. In light of the said infirmity, it is not necessary for the writ petitioners to invoke the alternative remedy available as pointed by the learned counsel appearing for the respondents 1 to 3.*

*12. In the result, all the writ petitions are partly allowed and the impugned order dated 09.04.2015 is set aside and the matter is remitted back to the third respondent for fresh adjudication in accordance with Section 167 of the Tamil Nadu Cooperative Societies Act r/w Rule 140 of the Tamil Nadu Cooperative Societies Rules. It is made clear that in the interregnum, the petitioners shall not alienate or encumber or create third party rights in respect of the immovable properties. The third respondents shall make every endeavour to pass fresh orders in terms of the above said provisions within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected*



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*miscellaneous petitions are closed. "*

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3. Thus, in conclusion, the impugned orders were set aside and the matter had been remitted back to the District Registrar of Cooperative Societies to re-do afresh making it clear and protecting the interests of the respondent in the interregnum by directing that the petitioners shall not alienate or encumber or create third party rights in respect of the property in question.

4. In light of acquiescence by all learned counsel to the fact that the ratio of that order shall be clearly applicable in the present case as well, those observations and conclusions in paragraphs 9 to 12 extracted above would be applicable on all force in the present case as well. That order has been subsequently followed in the case of *B.Ravichandran v The Joint Registrar and others* [W.P.No.38843 & 38844 of 2015 dated 10.12.2015] as well.

5. In light of the aforesaid discussion, this writ petition is disposed in terms of the above order. The third respondent is directed to issue notice to the petitioner, hear and conclude the proceedings within a period of four weeks from the date of receipt



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of a copy of this order. No costs. Connected miscellaneous petitions are closed.

15.06.2023

Index:Yes/No  
Neutral Citation:Yes  
ssm

To:

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DR. ANITA SUMANTH,J.

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