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W.P.No.23445 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED :09.08.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE S.SOUNTAR**

**W.P No.23445 of 2023**

**and**

**W.M.P.No.22974 & 22975 of 2023**

R.Selvaraj

...Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,  
Salem Circle, Salem, Salem District.

2.The Co-Operative Sub Registrar/Sale Officer,  
O/o.Deputy Registrar of Co-operative Societies,  
Salem Circle, Salem.

3.The Special Officer,  
S.411 Suramangalam Primary Agricultural  
Co-operative Bank Limited, Suramangalam,  
Salem-636 005.

..Respondents.

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 2<sup>nd</sup> respondent in Form 8 in E.P.No.595/2006-07 in Award No.1192/2006-07 in Award No.1191/2006-07 dated 15.07.2023 and



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quash the same

For Petitioner

:Mr.C.Prakasam

For Respondents

: Mr.R.U.Dinesh Raj Kumar  
Additional Government Pleader

### **ORDER**

The writ petition is filed challenging the auction notice issued by the 3<sup>rd</sup> respondent.

2. The petitioner herein suffered a surcharge order in Award No.1192 of 2006-07. In the execution proceedings initiated by the 3<sup>rd</sup> respondent, the property of the petitioner is brought to sale and impugned auction notice is issued by the 3<sup>rd</sup> respondent.

3. The learned counsel for the petitioner submits that challenging the surcharge order passed against him, he filed an appeal before the Co-operative Tribunal in C.M.A(C.S).No.2 of 2008 on the file of the learned Principal District Judge, Salem and the same was dismissed. Aggrieved by the same, the



petitioner filed revision before this Court in C.R.P.No.2938 of 2022 and the same is pending. The learned counsel for the petitioner further submits that while CRP is pending, the 3<sup>rd</sup> respondent is proceeding with the issue of impugned auction notice. The learned counsel also submits that the property in question was settled in favour of the petitioner in the year 1993 by his father and therefore, the 3<sup>rd</sup> respondent is not justified in bringing the property for sale.

4. Admittedly, the property belongs to the petitioner. The petitioner suffered a surcharge order. In such circumstances, the 3<sup>rd</sup> respondent is entitled to proceed against the property of the petitioner unless the surcharge order is set aside or stayed in the manner known to law. Admittedly, in this case, the revision filed by the petitioner challenging the dismissal of the appeal filed by him is pending before this Court in C.R.P.No. 2938 of 2022. In such circumstances, it is for the petitioner to move appropriate application before the revisional Court for stay of further proceedings in pursuance of surcharge order. When the petitioner has an effective remedy before this Court in revisional side, this Court is not inclined to entertain this writ petition.



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5. Accordingly, this writ petition is dismissed with liberty to the petitioner to move the revisional Court for appropriate interim relief. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No  
Internet : Yes/No  
Speaking Order/Non-Speaking Order  
Neutral Citation Case : Yes/No  
nr

To

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Salem Circle, Salem, Salem District.
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**S.SOUNTHAR, J.**  
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