



WEB COPY



W.P. No. 28582 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 28582 of 2023
and
W.M.P. No. 28133 of 2023**

D. Gopinath

... Petitioner

-VS-

1. The Manager,
Thiruvannamalai District,
Central Co-operative Bank,
Vettavalam Branch,
Thandarampattu Taluk,
Thiruvannamalai District.
 2. The Sale Officer,
O/o The Deputy Registrar of Co-operative Societies,
Thiruvannamalai Region,
Thiruvannamalai.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the impugned Auction Notice issued by the Second Respondent under Rule 126 of Tamil Nadu Co-operative Societies Rules and published in Tamil Daily “Dinakaran” dated 29.08.2023 quash the same in so far as it relates to the Petitioner's properties are concerned.



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W.P. No. 28582 of 2023

For Petitioner : Mr. K.Govi Ganesan

For Respondents : Mr. C.Karthiravan (for R1)

Mr. S.Arumugam
Government Advocate (for R2)

ORDER

Heard Mr. K.Govi Ganesan, Learned Counsel for the Petitioner, Mr. C.Kathiravan, Learned Counsel for the First Respondent and Mr. S.Arumugam, Learned Government Advocate appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Second Respondent had published a notification on 29.08.2023 in the Tamil Daily Newspaper 'Dinakaran' for sale of the properties of the Petitioner at Plot Nos. 41, 42 and 43 in the Lay-out as 'Vallalar Nagar' in New S.F.Nos. 25/2 and 25/1A situated at Kiliapattu Village, Tiruvannamalai Taluk, Tiruvannamalai District measuring an extent of 3,600 sq.ft. towards for recovery of the amounts determined in surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1987 (hereinafter referred to as 'the Act' for short) against his mother-in-law, viz., Tmt. E.Prema, who was



W.P. No. 28582 of 2023

employed in the Co-operative Society of the First Respondent, which is challenged in this Writ Petition contending that the said properties had been acquired by him from out of the retirement benefits of his father and not from any proceeds derived from the Co-operative Society of the First Respondent.

3. At this juncture, reference must be made to Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988 (hereinafter referred to as 'the Rules' for short) which provides that where any claim or objection is made to the attachment of any property attached under those Rules on the ground that such property is not liable to any attachment, it shall be incumbent upon the Sale Officer to investigate the claim or objection and dispose of it on merits.

4. In view of the aforesaid legal position, Learned Counsel for the Petitioner seeks permission of this Court to withdraw the Writ Petition with liberty to resort to the aforesaid procedure and he has made an endorsement to that effect in the court record.

In fine, the Writ Petition is dismissed as withdrawn granting such liberty. It is made clear that for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petition, viz.,



W.P. No. 28582 of 2023

25.09.2023, till the date on which the certified copy of this order is made ready

by the Registry, shall be excluded. Consequently, the connected Miscellaneous

Petition is closed. No costs.

29.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 28.02.2024.

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To

1. The Manager,
Thiruvannamalai District,
Central Co-operative Bank,
Vettavalam Branch,
Thandarampattu Taluk,
Thiruvannamalai District.
2. The Sale Officer,
O/o The Deputy Registrar of Co-operative Societies,
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W.P. No. 28582 of 2023

P.D. AUDIKESAVALU, J.

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W.P. No. 28582 of 2023

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