



WEB COPY



W.P. No.29013 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

CORAM

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

**W.P. No. 29013 of 2023
and
W.M.P. No. 28591 of 2023**

Rajendran M

... Petitioner

-VS-

1. The Deputy Registrar of Co-operative Societies,
Namakkal Circle,
Namakkal.
2. The Sub-Registrar of Co-operative Societies,
Enquiry Officer under Section 81
Mohanur Taluk,
Namakkal District.
3. The President,
Na.Na.307, Namakkal District Consumer
Co-operative Wholesale Stores Limited,
Namakkal.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the entire records in relation to the Impugned Notice dated 05.09.2023 issued by the 1st respondent in Na.Ka.No.2910/2023/SaPa(1) to make an order of Interim Attachment of the immovable properties of the Petitioner under Section 167(1) of the Tamil Nadu



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Cooperative Societies Act, 1983 and to quash the same.

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For Petitioner : Mr. K.M. Arun

For Respondents : Mr. S.Arumugham (R1 and R2)
Government Advocate

No appearance (R3)

ORDER

Heard Mr. K.M. Arun, Learned Counsel for the Petitioner and Mr. S.Arumugham, Learned Government Advocate appearing for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Though notice has been served, there is no representation for the Third Respondent when the matter is called 4.40 p.m. today.

3. The Writ Petition has been filed challenging the Notice in Na. Ka. No. 2910/2023/SaPa(1) dated 05.09.2023 issued by the First Respondent to make an order of interim attachment of the immovable properties of the Petitioner under Section 167(1) of the Tamil Nadu Co-operative Societies Act,



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1983 (hereinafter referred to as 'the TNCS Act' for short), pending proceedings under Section 90 of that Act.

4. Learned Government Advocate appearing for the First and Second Respondents, on instructions, states that the said proceedings under Section 90 of the TNCS Act, have been withdrawn on 15.12.2023 and enquiry has commenced in surcharge proceedings against the Petitioner by show cause notice dated 05.10.2023 sent by the First Respondent to all persons including the Petitioner, who are responsible for the loss incurred.

5. In view of the aforesaid submissions made, the impugned order passed under Section 167 of the TNCS Act pending reference under Section 90 of the TNCS Act, stands abated, but it would not preclude the concerned authority from taking fresh action under Section 167 of the TNCS Act pending the surcharge proceedings under Section 87 of the TNCS Act following the prescribed procedure in accordance with law. It is made clear that no view has been expressed by the Court on the merits of the controversy involved.



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In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 22.05.2024.

gsa

To

1. The Deputy Registrar of Co-operative Societies,
Namakkal Circle,
Namakkal.
2. The Sub-Registrar of Co-operative Societies,
Enquiry Officer under Section 81
Mohanur Taluk,
Namakkal District.
3. The President,
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P.D. AUDIKESAVALU, J.

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