



W.P.No.29194 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.29194 of 2023

and

W.M.P.No.28792 of 2023

N.Lakshmi
W/o.Late Namasivayam
8/101, Pannapatti Mel Street
Pannapatti Post
Kadayampatti Taluk
Salem District.

... Petitioner

/Vs/

1.The Deputy Registrar of Co-operative Societies
O/o Deputy Registrar of Co-operative Societies
Omalur Circle, Omalur, Salem District.

2.The Co-operative Sub-Registrar/Sale Officer
S.M.80, Poosaripatti Primary Agricultural Co-operative Credit Society
Pannapatti Post
Kadayampatti Taluk
Salem District.

3.The Secretary
S.M.80, Poosaripatti Primary Agricultural Co-operative Credit Society
Pannapatti Post
Kadayampatti Taluk
Salem District.

... Respondents



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Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records with reference to Form No.9 dated 24.08.2023, issued by the 2nd Respondent in so far as it relates to in List No.2, Land measuring to an extent of 0.5.00 Hect., comprised in Survey No.148/8B, Pannapatti Village, List No.3, Land measuring to an extent of 0.10.50 Hect. in Survey No.149/8F, Pannapatti Village, List No.4, Land measuring to an extent of 0.22.50 Hect. in Survey No.149/8H, Pannapatti Village, List No.5, Land measuring to an extent of 0.6.00 Hect. in Survey No.158/1C, Pannapatti Village of schedule of properties and quash the same.

For Petitioner : Mr.S.Umapathy

For Respondents : Mr.S.J.Mohamed Sathik (for R1 & R2)
Government Advocate

Mr.K.Tippusultan (for R3)
Government Advocate

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorari to call for the records with reference to Form No.9 dated 24.08.2023, issued by the 2nd Respondent in so far as it relates to in List No.2, Land measuring to an extent of 0.5.00 Hect., comprised in Survey No.148/8B, Pannapatti Village, List No.3, Land measuring to an extent of 0.10.50 Hect. in Survey



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No.149/8F, Pannapatti Village, List No.4, Land measuring to an extent of 0.22.50 Hect. in Survey No.149/8H, Pannapatti Village, List No.5, Land measuring to an extent of 0.6.00 Hect. in Survey No.158/1C, Pannapatti Village of schedule of properties and quash the same.

2.Mr.S.J.Mohamed Sathik, learned Government Advocate, takes notice on behalf of Respondents 1 & 2 and Mr.K.Tippusultan, learned Government Advocate, takes notice on behalf of the third Respondent.

3.Learned counsel for the Petitioner submitted that in the surcharge proceedings, the property exclusively belongs to the Petitioner also brought into auction, despite her representation to the first Respondent by alleging her exclusive entitlement of title. In this regard, earlier a Writ Petition in W.P.No.32198 of 2022 has been filed, in which following order has been passed on 30.01.2022 by this Court:

“2.The Petitioner seeks liberty to move an application in CMA.No.26 of 2020, filed by her father challenging surcharge proceedings, pending before the Principal District Judge, Salem praying for appropriate protection in the



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interim.

3.Upon condition that the application for interim protection is filed and proof produced before the Sale Officer, the auction proposed on 05.12.2022 shall stand deferred. The period of deference shall be eight weeks or till interim application is heard by the Principal District Judge, Salem, whichever is earlier.

4.In light of the endorsement made, this Writ Petition is dismissed as withdrawn with liberty as aforesaid. No costs. Connected Miscellaneous Petition is closed.”

However, the learned counsel for the Petitioner submitted that due to the demise of the earlier counsel, who appeared for the Petitioner, Interlocutory Application in CMA.No.26 of 2020 could not filed properly and that resulted in the impugned proceedings.

4.Heard the learned counsel for the Petitioner and the learned Government Advocates for the Respondents.

5.Having got liberty to file an application in the pending CMA proceedings, before the learned Principal District Judge, Salem, the Petitioner ought to have been vigilant enough in seeing the Petition disposed



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on merits. The Petitioner cannot be allowed to protract the proceedings due to her inability to follow the proceedings.

6.Since the application filed by the Petitioner has not been fructified into an order on merits, I feel it is appropriate to give only an extension of four weeks time, so as to re-present the application by the Petitioner, which has been already returned. In turn, the Respondents shall not continue the proceedings atleast till the application proposed to be re-presented by the Petitioner, and on re-presenting the application, the same shall be disposed of by the Respondents, within a period of four weeks from the date of receipt of copy of this order.

7.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

09.10.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

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R.N.MANJULA, J.

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To

1.The Deputy Registrar of Co-operative Societies
O/o Deputy Registrar of Co-operative Societies
Omalur Circle, Omalur, Salem District.

2.The Co-operative Sub-Registrar/Sale Officer
S.M.80, Poosaripatti Primary Agricultural Co-operative Credit Society
Pannapatti Post
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and

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3.The Secretary
S.M.80, Poosaripatti Primary Agricultural Co-operative Credit Society
Pannapatti Post
Kadayampatti Taluk
Salem District.

Copy to
The learned Principal District Judge, Salem

09.10.2023