



W.P.No.29671 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P.No.29671 of 2023 and
W.M.P.Nos.29277 & 29278 of 2023

1. Saravanan

2. Prasanth

3. Nalini

4. Rajeswari

5. Rajalakshmi

... Petitioners

Vs.

1. The Registrar of Co-operative Societies,
O/o/ The Registrar of Co-operative Societies,
Kilpauk, Chennai – 600 010.

2. The Deputy Registrar,
The Cooperative Societies,
Tiruvannamalai Zone,
Tiruvannamalai District.

3. The Special Officer,
HH 579 Primary Co-operative Agricultural Bank,
Thatchambadi,
Tiruvannamalai District.

... Respondents



W.P.No.29671 of 2023

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relevant to the auction sale notice dated 31.08.2023 passed by the 2nd respondent and quash the same.

For Petitioners : Mr.R.Gopalakrishnan

For Respondents : Mr.S.Arun
Government Advocate

ORDER

This Writ Petition has been filed seeking issuance of Writ of Certiorari to call for the records relevant to the auction sale notice dated 31.08.2023 passed by the 2nd respondent.

2. Heard Mr.R.Gopalakrishnan, learned counsel for the petitioners and Mr.S.Arun, learned Government Advocate for the respondents.

3. The petitioners are the sons and daughters of one Late Sampath. The said Sampath was originally appointed as a Salesman in the third



W.P.No.29671 of 2023

respondent Society on 11.04.1979. Thereafter, he reached the level of Secretary as on 01.01.1991. During that time, a charge memo imposing various allegations was served on him on 27.10.1997. Later, he was dismissed from service on 11.08.1998.

4. Thereafter, the petitioners' father Sampath had filed a suit in O.S.No.299 of 1998 against the third respondent seeking the relief of declaration and permanent injunction and the same was partly decreed in respect of declaration and dismissed in respect of the permanent injunction. Against which, both the plaintiff and defendants in O.S.No.299 of 1998 have preferred appeal and cross appeal and the same is pending in A.S.No.4 of 2023 before the Sub Court, Polur.

5. In the meanwhile, the petitioners' father Sampath passed away on 27.12.2011. So, in the appeal proceedings, the third respondent has impleaded the legal heirs of the deceased Sampath, (who are the petitioners herein) as parties. However, the impugned auction notice dated 31.08.2023 has been issued in the name of deceased Sampath.



W.P.No.29671 of 2023

WEB COPY

6. Learned counsel for the petitioners submitted that since the notice has been sent to a dead person, the petitioners are not be able to know about the notice and take any action. The Death Certificate dated 31.01.2012 reveals that Sampath died on 27.12.2011. When the respondents have impleaded the petitioners as legal heirs of the deceased Sampath in the pending civil proceedings, they ought not to have issued the impugned notice to Sampath, who is no more.

7. The learned Government Advocate submitted that the notice has been sent as per the details available on record. Since the impugned notice has been given in the name of a dead person, it is invalid and liable to be set aside.

8. In view of the above reasons, the impugned notice dated 31.08.2023 issued by the second respondent is set aside. However, the respondents are at liberty to issue notice in the manner known to law.



W.P.No.29671 of 2023

WEB COPY

9. With these observations, this Writ Petition stands disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

10.10.2023

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Index : Yes / No

Speaking / Non-speaking

Neutral Citation : Yes / No

Note : Issue Order copy today (10.10.2023)

To

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W.P.No.29671 of 2023

R.N.MANJULA, J.

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