



WEB COPY



W.P. No. 30573 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.10.2023

CORAM

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

**W.P. No. 30573 of 2023
and
W.M.P. Nos. 30207 and 30208 of 2023**

S.Sekar

... Petitioner

-VS-

1. The Deputy Registrar of Co-operative Society
Omalur Taluk, Omalur Post
Salem District.
2. The Administrator
S 777 Nangavalli Primary Agricultural Co-operative
Credit Society Limited
Nangavalli Post, Mettur Taluk
Salem District.
3. The Sale Officer
S 777 Nangavalli Primary Agricultural Co-operative
Credit Society Limited
Nangavalli Post, Mettur Taluk
Salem District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 2050, praying to issue a Writ of Certiorari, calling for the records of the First Respondent herein relating to the impugned orders in Sale auction notice in For 8 and 9 dated 12.09.2023 quash the same.

For Petitioner

: Mr. G.Punniakoti



W.P. No. 30573 of 2023

WEB COPY

For Respondents

: Mr. U. Baranidaran

Additional Government Pleader

ORDER

Heard Mr. G. Punniakoti, Learned Counsel for the Petitioner and Mr. U. Baranidaran, Learned Additional Government Pleader, who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The First Respondent by Proceedings dated 12.09.2023 has issued the proclamation of sale of the properties of the Petitioner 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), which is challenged in this Writ Petition contending that the said properties had devolved upon him by inheritance from his father and mother and were not acquired from any proceeds derived by him from the Co-operative Society of the Second 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



W.P. No. 30573 of 2023

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., 13.10.2023, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Consequently, connected Miscellaneous Petition is closed. No costs.

30.10.2023

Index: Yes/No

NCS : Yes/No

Maya

Note: Issue order copy by 28.02.2024.

To



W.P. No. 30573 of 2023

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W.P. No. 30573 of 2023

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 30573 of 2023

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