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W.P. No. 34093 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.12.2023

CORAM

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

W.P. No. 34093 of 2023

R.Mani

... Petitioner

-VS-

1. The Registrar,
Co-operative Societies,
N.V.Natarajan Maligai,
No. 170, E.V.R. Periyar High Road,
Kilpaukkam,
Chennai – 600 010.
2. The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar,
District Collector Office Campus,
Salem District.
3. The Deputy Registrar of Co-operative Societies,
Attur Circle,
Attur,
Salem District.
4. The Sub Registrar,
Office of the SRO,
Attur,
Salem East.
5. Periyasamay

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Third Respondent to



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release the Petitioner's properties which was erroneously attached by disposing of the Petitioner's representation dated 10.10.2023 within the time frame stipulated by this Court.

For Petitioner : Mr. M.Sudhan

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 to R4)

O R D E R

Heard Mr. M.Sudhan, Learned Counsel for the Petitioner and Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Third Respondent by Proceedings No. C.E.P.No. 1/2002-2003 dated 13.08.2002 had attached properties of the Fifth Respondent, who was working as Cashier of S-135 Seeliampatty Primary Agricultural Co-operative Society (hereinafter referred to as 'the Co-operative Society' for short) pursuant to determination of liability against him in surcharge proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act, 1987, in respect of that Co-operative Society. The Petitioner had made a representation dated



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10.10.2023 to the Second and Third Respondents seeking to release the attachment made over the said properties as he has undivided shares in them, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. Learned Additional Government Pleader appearing for the First to Fourth Respondents, on instructions, states that the attachment has not been made in respect of the entirety of those properties, but only restricted to the shares of the Fifth Respondent held in them.

4. 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 made 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.

5. It is represented by Learned Counsel for the Petitioner that the representation dated 10.10.2023 made by the Petitioner to the Second and Third Respondents may be treated as such application made under Rule 135 of the



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Rules raising his objections for the attachment of the property made by the concerned authority.

6. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) it shall be incumbent upon the concerned authority to immediately examine the representation made on 10.10.2023 by the Petitioner to the Second and Third Respondents as an application under Rule 135 of the Rules raising his objections for the attachment of the property made by the concerned authority including ascertaining as to whether the Petitioner would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing to the Petitioner or any other person as may be deemed necessary requiring the same to be furnished within a time frame of not less than 15 days for the same;
- (iii) in the event of not being satisfied with the requirements even thereafter, an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;



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(iv) a reasoned order shall be passed dealing with each of the contentions

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(v) any proposal for sale of the attached property through public auction or otherwise for the realization of the dues claimed from the Fifth Respondent shall be deferred till the aforesaid exercise is completed; and

(vi) if any adverse decision is taken, the Petitioner may pursue legal remedies before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 28.02.2024.

vjt



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To

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P.D. AUDIKESAVALU, J.

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