



W.P.(MD) No.1139 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.1139 of 2020

and

W.M.P.(MD) Nos.904 and 905 of 2020

R.J.Gangatharan

.. Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Madurai.

2.A.3101 Madurai Milk Project Employees
Cooperative Thrift and Credit Society Ltd.,
Rep., by its President,
Sathamangalam, Madurai.

3.A.3101 Madurai Milk Project Employees
Cooperative Thrift and Credit Society Ltd.,
Rep., by its Administrator/Cooperative Sub Registrar,
M.Balaji,
Sathamangalam, Madurai-20

.. Respondents

[R3 is impleaded vide Court order dated 24.03.2023 in W.M.P.(MD) No.13931 of 2022 in W.P.(MD) No.1139 of 2020]

Prayer :- Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorari to call for the records relating



W.P.(MD) No.1139 of 2020

to the show cause notice dated 27.12.2019 issued by the first respondent in C.E.P.No.12/2019-2020 in Dispute No.05/2019-2020 and consequential order of attachment dated 10.01.2020 passed by the first respondent.

For Petitioner : Mr.R.Gandhi
For R1 : Mr.K.Selvaganesan
Additional Government Pleader
For R2 : Mr.S.Ram Sundar Vijayraj
For R3 : Mr.S.Rajasekar
for M/s.T.Lajapathi Roy & Associates

ORDER

The above writ petition has been filed for the issue of a Writ of Certiorari to call for the records relating to the show cause notice dated 27.12.2019 issued by the first respondent in C.E.P.No.12/2019-2020 in Dispute No.05/2019-2020 and the consequential order of attachment dated 10.01.2020 passed by the first respondent.

2. The petitioner seeks to challenge the order passed by the first respondent on the ground that the same has been passed by a person, who is a co-accused. It appears that on 27.12.2019, the first respondent



W.P.(MD) No.1139 of 2020

passed a show cause notice directing the petitioner to furnish security for a sum of Rs.4 Crores, failing which had threatened to order conditional attachment of the property. This conditional order was passed as a security for the proceedings initiated by the second respondent before the first respondent against the petitioner for the allegation of misappropriation etc.

3. The second respondent-Society filed an application under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 before the first respondent on 27.12.2019 for recovery of financial deficiency of Rs. 4 Crores which they stated had been caused by the petitioner. Along with the application, an execution petition was filed. On the very same day, a show cause notice was issued calling upon the petitioner to furnish security, or else the petitioner was threatened with attachment of the property in question.

4. On 06.01.2020, the petitioner submitted his objection and sought for documents. However, the said documents were not furnished



W.P.(MD) No.1139 of 2020

to him. Thereafter, on 07.01.2020, the petitioner had forwarded the very same objections by RPAD which was received by the first respondent on 09.01.2020. Despite receipt of the objections, the first respondent had passed the impugned order.

5. It is the petitioner's case that this order of attaching the entire property is totally erroneous, since the property belonged to the petitioner's wife to whom her father had gifted the same when she was a minor. Therefore, it is the contention of the petitioner that the order in question has to be set aside, particularly when there is nothing to show that the petitioner's objections have been considered.

6. The first respondent has filed a counter contending that the property in question devolves upon the petitioner and his daughter, since the petitioner's wife Ushadevi had expired on 17.10.2019 before the issue of the notice and the commencement of the proceedings. The first respondent had thereafter, raised several allegations against the petitioner.



W.P.(MD) No.1139 of 2020

WEB COPY

7. Heard the learned counsel on either side.

8. Admittedly, on the death of the petitioner's wife, the property devolved upon the petitioner and his minor daughter. The property of the minor cannot be attached. That apart, the person on whose behest the entire proceedings had been commenced, is a co-delinquent against whom the proceedings are pending. Therefore, the proceedings initiated has to necessarily fail for the aforesaid reasons. Therefore, this Writ Petition is allowed and the impugned order is quashed. It is informed that the Administrator has taken over the Society. It is open to him to take such proceedings as required under law. No costs. Consequently, connected miscellaneous petitions are closed.

09.06.2023

NCC : Yes/No

Index : Yes/No

Internet : Yes

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W.P.(MD) No.1139 of 2020

P.T.ASHA, J.

abr

To

The Deputy Registrar of Cooperative Societies,
Madurai.

W.P.(MD) No.1139 of 2020

Dated: 09.06.2023