



W.P(MD)No.7369 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:06.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.7369 of 2023
and WMP(MD)Nos.6906 and 6907 of 2023

Indira M @ Indira Devi

... Petitioner

Vs

1. The Joint Registrar of Co-operative Societies,
Thoothukudi, Thoothukudi District.
2. The Deputy Registrar of Co-Operative Societies
/ District Registrar,
Thiruchendur, Thoothukudi District.
3. The Management,
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk, Thoothukudi District.
4. The Management / Secretary,
Kurumbur Primary Agricultural Cooperative Credit Society,
Kurumbur, Eral Taluk, Thoothukudi District.

... Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the impugned notification under Form No.6, passed by the second respondent, under



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proceeding No.Nil, dated 15.03.2023, as far as attaching the petitioner's absolute property are concerned and to quash the same as illegal.

For Petitioner	:Mr. K.R.Laxman
For R1,R2	:Mr.S.Shanmugavel Additional Government Pleader
For R3,R4	:Mr.S.Shanmuganatha Sethupathy

ORDER

The writ petition has been filed in the nature of a Certiorari, seeking interference with the notification issued under Form No.6, by the second respondent/Deputy Registrar of Co-Operative Societies/District Registrar, Thiruchendur, Thoothukudi District in proceedings, dated 15.03.2023, by which, the property of the petitioner had been attached.

2.The petitioner is the wife of T.Murugesapandian. The husband T.Murugesapandian, was a member of the fourth respondent's Society namely Kurumbur Primary Agricultural Cooperative Credit Society at Thoothukudi District. He was also subsequently elected as President in September, 2018.

3.Let me examine the facts further relating to the said



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T.Murugesapandian, since there have been charges of misappropriation of amount, which is said to be Rs.89,60,050/-. The second respondent had issued notice to the petitioner that the property which had been stated in the writ petition should be brought for sale.

4.The petitioner had filed a claim petition stating that the property was assigned in the year 2007 and cannot be considered as property earned by her husband. However, the said claim petition was not even numbered, but rejected. This is the cause for filing the writ petition.

5.In W.P.No.11893 of 2017, dated 12.06.2017 in K.Subramani Vs. The Deputy Registrar of Co-operative Societies and two others, wherein, the petitioner therein claimed that the property which was sought to be attached belongs to the petitioner therein and that for various acts of commission and omission done by his wife, his property cannot be attached, a learned Single Judge had elaborately discussed the issue and passed an order as follows:

8. In the result, the writ petition is partly allowed and the impugned Order of attachment dated 05.07.2016 passed by the first respondent in Rc.No.2573 of 2016 which was



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received by the petitioner through Sub-Registrar on 21.04.2017 is set aside and the matter is remanded back to the first respondent for fresh adjudication in accordance with Section 167 of the Tamil Nadu Cooperative Societies Act read with Rule 140 of the Tamil Nadu Cooperative Societies Rules. It is made clear that till the order is passed by the first respondent, the petitioner shall not alienate or encumber or create third party right in respect of the immovable properties. The first respondent is directed to pass fresh orders in terms of the above provisions within a period of twelve weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petitions are closed. No costs.

5.The learned counsel appearing for the petitioner stated that it will only be appropriate that the same relief is granted to the petitioner also.

6.It is also stated by the learned Additional Government Pleader that the petitioner should participate in the claim petition, thereafter, considered order will be passed.

7.I therefore, direct the second respondent to take on record the



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claim petition, which had already been filed by the petitioner, number the same, give an opportunity to the petitioner to put forth her contentions, with respect of assignment and construction of building. In the light of the above, detailed order should be passed, either allowing the claim petition or dismissing the same. The said exercise should be completed, within a period of sixteen weeks, from the date of receipt of a copy of this order.

8.Naturally, till such time, the petitioner cannot deal with the property and also the respondent cannot bring the property for sale. No further orders are required. During the course of enquiry, if the petitioner requires assistance, she may take the assistance from anybody, who is also trained in legal matters.

9.In view of the above facts, this Writ Petition is partly allowed.
No costs. Consequently, connected miscellaneous petitions are closed.

06.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM



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C.V.KARTHIKEYAN, J.

PNM

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