



WP(MD)No.11314 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 24.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.11314 of 2023

and

WMP(MD)No.9867 of 2023

1.D.Lilly Joy

2.D.Baffin Lal

3.Baffin Bala

... Petitioners

v.

1.The Registrar of Co-operative Societies,
EVR Salai,
Chennai – 600 031.

2.The Deputy Registrar of Co-operative Societies,
Thuckalay,
Kanyakumari District.

3.The Sub Registrar of Co-operative Societies,
Sale Officer,
Munchirai,
Kalkulam Taluk,
Kanyakumari District.



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4.M/s.Mathukummal Primary Agricultural Co-op. Bank Ltd.,
Sooriya Code (Post),
Kanyakumari District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Certiorari calling for the records pertaining to the Auction Notice of the third respondent dated 03.04.2023 and quash the same.

For Petitioners : Mr.C.K.M.Appaji

For Respondents : Mrs.D.Farjana Ghoushia,
Special Government Pleader
for R.1 to R.3

ORDER

This writ petition is filed by the petitioners challenging the auction notice issued by the third respondent dated 03.04.2023.

2.The petitioners are the legal heirs of one Devadas, who was the then Secretary of the fourth respondent Society from 05.05.1979 to 26.02.1991. The first respondent, by proceedings dated 03.09.1991, has ordered for an enquiry u/s.81 of the Co-operative Societies Act as to the affairs of the fourth



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respondent Society. Based on the enquiry report, surcharge proceedings were initiated and the properties of Devadas were brought into auction. The petitioners, with a grievance that after thirty years of the order passed in the surcharge proceedings, auction notice has now been issued and therefore, it is hit by limitation as per Section 146 of the Co-operative Societies Act.

3. When the writ petition came up for hearing today, learned Special Government Pleader, on instructions, submitted that the petitioners have already filed a statutory appeal before the Co-operative Tribunal as against the surcharge order passed u/s.87 of the Co-operative Societies Act and the same is pending in CMA(CS)No.10 of 2023 before the Co-operative Tribunal [Principal District Court], Kanyakumari at Nagercoil.

4. Since the petitioners have already filed a statutory appeal before the Tribunal as against the surcharge order, this writ petition is disposed of with liberty to the petitioners to work out their remedy in the pending appeal. The petitioners can raise the grounds raised in this writ petition before the Tribunal.



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B.PUGALENDHI, J.

gk

There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Index : Yes / No
NCC : Yes / No
gk

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