



W.P(MD)No.14868 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.14868 of 2023
and WMP(MD)No.12547 of 2023

S.Sairam

... Petitioner

Vs

1. The Deputy Registrar of Co-Operative Societies,
Nagercoil.
2. The President,
Y.48, Mylaudi Primary Agricultural Co-Operative Society,
Mylaudi, Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certioari calling for the records of the impugned auction Sale Notice under Rule 126 of the Tamil Nadu Co-operative Societies Rules, 1988 in EP No. 1/2022-23, dated 30.05.2023 passed by the first respondent, quash the same as illegal.

For Petitioner

: Mr.A.S.Abdul Kalam Azad
for Spicy Law Firm



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For R1 : Mr.S.Shanmugavel
Additional Government Pleader

For R2 : Mr.R.Maheswaran
Standing counsel

ORDER

The writ petition is totally misconceived.

2.The petitioner is the President of the Mylaudi Primary Agricultural Co-Operative Society at Kanyakumari District. Without serving the interests of the members of the Co-operative Society, the petitioner had misappropriated a grant of Rs.1Crore. Against the petitioner, surcharge proceedings had been initiated. The petitioner had cleverly partitioned and subdivided the property and sold it to third parties. By his act, prior to the order or after the order, he had tried to defeat the legal process to recover the sum of about Rs.1Crore. The Co-operative Society comprises of members and if amounts are misappropriated, each and every member would suffer. By the act of the petitioner, he has betrayed the members of the Society, wherein, he is the President.



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3.By this writ petition, the writ petitioner seeks frustration the e-auction to bring the property on sale. He relies on Section 126 of the Tamil Nadu Co-operative Societies Rules, 1988. In particular, the learned counsel for the petitioner places reliance under Rule 126(2)(a) of the said Rules. The Rule 126 relates to procedure in attachment and sale of immovable property. Whenever any property is attached, it is necessary that the description of the immovable property is given and it must also be identifiable. It is stated by the learned counsel for the petitioner that the description of the property has been given and the property is also identifiable.

4.The only grievance of the petitioner is that the property had been sold to third parties after subdivision and therefore, notice has to be given to third parties.

5.I am not called upon to discuss about the surcharge proceedings raised against the petitioner. The petitioner has to answer the charges and address the proceedings. It he is alleged to be responsible for misappropriation, he is answerable. Now the petitioner claims innocence, ignorance and indulgence. Such indulgence is refused.



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6.I am informed by the learned Additional Government Pleader, who appears on behalf of the first respondent that a claim petition has also been filed. The petitioner is also a party in the claim petition. Those who have purchased the property from the petitioner directly may proceed against the petitioner to protect their interest.

7.In view of above facts, the writ petition is dismissed with costs of Rs.10,000/- (Rupees Ten Thousand only) on the petitioner, which is to be paid to the Chairperson of District Legal Services Authority, Kanyakumari District on or before 15.07.2023. The Chairperson has to file a report, whether the petitioner has paid the costs or not. If the costs are not paid, then without reference to this Court, a report may be forwarded to the District Collector, Kanyakumari, who must initiate proceedings under the Revenue Recovery Act for recovery of the costs. If the costs are paid, the Chairperson has to forward the same to the Dean, Government General Hospital, Kanyakumari District for treatment of a few poor patients, who may require alleviation owing to various illnesses suffered by them.



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8.This writ petition stands dismissed with costs of Rupees Ten Thousand as stated above. Consequently, connected miscellaneous petition is closed.

26.06.2023

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

To

1. The Deputy Registrar of Co-Operative Societies,
Nagercoil.
2. The President,
Y.48, Mylaudi Primary Agricultural Co-Operative Society,
Mylaudi, Kanyakumari District.



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C.V.KARTHIKEYAN, J.

PNM

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