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W.A.(MD) No.1215 of 2023

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 28.07.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE S.S.SUNDAR  
and  
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY**

**W.A.(MD) No.1215 of 2023  
and  
C.M.P.(MD) No.9139 of 2023**

S.Sairam

... Appellant

-vs-

1.The Deputy Registrar of  
Co-operative Societies  
Nagercoil

2.The President  
Y.48, Mylaudi Primary Agriculture  
Co-operative Society  
Mylaudi  
Kanyakumari District

... Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 26.06.2023, passed in W.P.(MD) No.14868 of 2023, on the file of this Court.



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For Appellant : Mr.B.Saravanan, Senior Counsel  
assisted by Mr.A.S.Abdul Kalaam Azad  
for M/s.Spicy Law Firm

For Respondents : Mr.M.Lingadurai  
Special Government Pleader for R1

### **J U D G M E N T**

**[Judgment of the Court was made by S.S.SUNDAR, J.]**

This writ appeal is directed against the order of the learned Single Judge, dated 26.06.2023, dismissing the writ petition in W.P.(MD) No.14868 of 2023 filed by the appellant herein challenging the auction sale notice issued by the first respondent, under Rule 126 of the Tamil Nadu Co-operative Societies Rules, 1988, in E.P.No.1/2022-23, dated 30.05.2023.

**2.** The appellant was the President of Mylaudi Primary Agricultural Co-operative Society in Kanyakumari District from 09.05.2013 till 29.04.2018. Subsequently, after a newly elected board taking charge of the Society, alleging misappropriation of funds, surcharge proceedings were initiated against the appellant. It is the case of the appellant that the property, which was partitioned long before the surcharge proceedings and



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sold to third parties, is being proceeded under Rule 126(2)(a) of the Tamil Nadu Co-operative Societies Rules, 1988. The appellant states that he has already sold the property to third parties, after sub-division and therefore, the property cannot be attached. It was reported before the learned Single Judge by the learned Additional Government Pleader that the purchasers have already filed claim petitions and therefore, the appellant has no *locus standi* to approach this Court by way of a parallel proceedings.

**3.** This Court finds that the appellant indirectly seeks to stall the sale proceedings initiated pursuant to the order that is sought to be executed through the Civil Court. When the persons interested / purchasers have filed claim petitions, wherein the appellant is also made as a party to the proceedings, he cannot maintain parallel proceedings i.e. writ proceedings before this Court, merely because he has sold the property after sub-division and that the purchasers may have claims on account of the surcharge proceedings. Rather, he has to workout his remedy in the pending claim application filed by the purchasers of the property in the manner known to law. In that view of the matter, this Court finds no merit in this writ appeal.



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**4.** Hence, this writ appeal is devoid of merits and the same is therefore dismissed. However, it is open to the appellant to join with the claimants / purchasers in pursuing the claim applications by supporting their stand. No costs. Consequently, connected miscellaneous petition is closed.

**[S.S.S.R., J.]**

**[D.B.C., J.]**

**28.07.2023**

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

The Deputy Registrar of  
Co-operative Societies,  
Nagercoil.



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