



W.P(MD)No.20210 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.20210 of 2023

and

W.M.P.(MD)No.16680 of 2023

R.Murugesan

... Petitioner

Vs.

1.The Sub Registrar,
Office of Sub Registrar,
Aruppukottai,
Virudhunagar District.

2.The Deputy Registrar of Cooperative Societies,
Aruppukottai,
Virudhunagar District.

3.The General Manager,
R.K.10, Virudhunagar District Central
Cooperative Bank,
Virudhunagar District.

4.R.Thiraviya Raj

5.R.Ramachandran

... Respondents

*(R3 to R5 are impleaded vide order dated
11.10.2023 in W.M.P.(MD)No.20879 of 2023 in
W.P.(MD)No.20210 of 2023 by GRSJ)*



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of of Certiorarified Mandamus, to call for the records to the refusal check slip No.RFL/Aruppukottai/31/2023 dated 04.08.2023 issued by the 1st respondent and to quash the same and consequently direct the 1st respondent to register the partition deed dated 04.08.2023 with temporary number T.P.157233328/2023 within a time frame as may be fixed by this Court .

For Petitioner : Mrs.P.Jessi Jeeva Priya

For Respondents : Mr.V.Nirmalkumar,
Government Advocate for R1 to R3.
Mr.T.Gopi for R4 & R5.

ORDER

Heard the learned counsel for the petitioner, the learned Governance Advocate for the official respondents and the learned counsel for the respondents 4 and 5.



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2.The writ petitioner, Thiraviya Raj and Ramachandran are siblings. They purchased a piece of vacant land measuring 13 cents vide sale deed dated 24.10.2018. Ramachandran is working as Secretary in-charge of the third respondent bank. He had suffered an order of surcharge. To enforce the same, the aforesaid property covered vide Document No.4954/2018 registered on the file of Sub Registrar Office, Aruppukottai was attached.

3.It was questioned by the petitioner in W.P.(MD)No.19456 of 2022. It was allowed by me on 24.08.2022 in the following terms:-

“Heard the learned counsel on either side.

2.The petitioner's brother/Ramachandran is employed as Secretary in-charge of a society. The said society comes under the control of the third respondent. Surcharge proceedings are said to be pending against him. Therefore, the impugned attachment order came to be passed by the second respondent. Challenging the same, this writ petition has been filed.



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3. There is no dispute that there is no proceedings against writ petitioner. The property which has been attached by the impugned order is a joint family property. As result of the impugned attachment order, the petitioner's rights have also been seriously infringed. This is clearly illegal and patently without jurisdiction. The second respondent could have only attached the share of the delinquent in the joint family property and not beyond that. Therefore, even while setting aside the impugned order and remanding the matter to the file of the second respondent, the second respondent is permitted to issue a fresh attachment order confining the same to the share of the delinquent in the joint family property.

4. With this liberty to the second respondent, the writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

4. Thereafter, revised proceedings were issued by the second respondent bearing Na.Ka.No.2527/2021/Sa.Pa.(1), dated 24.11.2022. The petitioner and his siblings entered into partition among themselves. It was presented for registration. The first respondent vide refusal check



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slip dated 04.08.2023 declined to register the document. The reason set out in the refusal check slip is that unless the attachment effected by the second respondent is lifted, the document cannot be registered. Questioning the same, the present writ petition came to be filed.

5.I heard the learned counsel on either side. It is seen that the property covered by the aforesaid order measures an extent of 13 cents. It is abutting Kamuthi – Aruppukotai Main Road. I wanted to know as to how, the partition had been effected among the brothers. The partition has been fairly and equitably done. The share allotted to the fifth respondent herein is similar to what has been taken by the petitioner and the fourth respondent. In fact, this arrangement would serve the interest of the society better.

6.In this view of the matter, the impugned order is set aside. The parties are permitted to re-present the document before the first respondent. The first respondent shall receive the same, register it and release it subject to fulfillment of usual formalities. The auction proceedings can go on. However, the authorities will make it clear to the



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intending purchaser that what is sought to be brought to auction is the share allotted to Thiru.Ramachandran.

7.This writ petition is allowed accordingly. No costs.

Consequently, connected miscellaneous petition is closed.

16.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

- 1.The Sub Registrar,
Office of Sub Registrar,
Aruppukottai,
Virudhunagar District.
- 2.The Deputy Registrar of Cooperative Societies,
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G.R.SWAMINATHAN, J.

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