



W.P.(MD)No.23382 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23382 of 2023

and

W.M.P.(MD)No.19565 of 2023

Kalpana

... Petitioner

versus

1. The Registrar of Co-operative Societies,
Office of the Registrar of Co-operative Societies,
No.170, E.V.r. Road,
Dr.Radhakrishnan Nagar,
Rasak Garden, SBA Officer's colony,
Arumbakkam,
Chennai – 106.
2. The Joint Registrar of Co-operative Societies,
Office of the Joint Registrar of
Co-operative Societies,
Palani, Dindigul District.
3. The Deputy Registrar of Co-operative Societies,
Office of the Deputy Registrar of Co-operative Societies,
Palani Circle, Palani,
Dindigul District.



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4. The Sale Officer,
Office of the Deputy Registrar of Co-operative Society,
Primary Agricultural Cooperative Credit Society,
Maniyakaranpatti, Vedasanthur Taluk,
Dindigul District.

5. The Administrator,
DD 524, Maniyakaranpatti Primary Agricultural
Co-operative Credit Society,
Palani Circle, Maniyakaranpatti,
Vedasanthur Taluk,
Dindigul District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records of the impugned Sale Notices issued by the 3rd respondent in Form 8 & Form 9 under Rule 126 of the Tamilnadu Co-operative Societies Rules 1988 dated 09.08.2023 (Public Auction scheduled on 26.09.2023) and quash the same.

For Petitioner : Mr.N.Adithya Vijayalayan

For Respondents : Mr.M.Sarangan,
Additional Government Pleader

ORDER

The petitioner, who is a widow, with a grievance that her property has been brought for auction for the alleged misappropriation



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made by her deceased husband during his service in the 5th respondent Society, has filed this writ petition that the auction is scheduled to be held tomorrow (i.e. on 26.09.2023).

2. The learned counsel appearing for the petitioner submits that the petitioner is not aware of the proceedings which has been initiated against her husband. He further submits that the property, which has been brought for auction, is the self-acquired property of the petitioner and her minor daughter is also having a share in that property. The learned counsel, by relying on the order passed by this Court in W.P.Nos.18128 and 20341 of 2020 dated 01.07.2021, submits that the petitioner has already submitted an objection before the 4th respondent/the Sale Officer, however, the same has not been considered. Hence, the petitioner is before this Court.

3. Mr.M.Sarangan, learned Additional Government Pleader takes notice for the respondents and seeks time to file his response.



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WEB COPY 4. Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, provides for investigation of claims and objections to attachment of property and the same is extracted as under:

“135. Investigation of claims and objections to attachment of property - (1) Where any claim is preferred to, or any objection is made to, the attachment of any property attached under these rules on the ground that such property is not liable to such attachment, the sale officer shall investigate the claim or objection and dispose of it on merits:

Provided that no such investigation shall be made when the sale office considers that the claim or objection is frivolous.

(2) Where the property to which the claim or objection relates has been advertised for sale, the sale officer may postpone the sale pending the investigation of the claim or objection.

(3) Where a claim or an objection is preferred, the party, against whom an order is made by the sale officer, may institute a suit within six months from the date of the order to establish the right which he claims to the



property in dispute, but subject to the result of such suit, if any, the order made by the sale officer shall be conclusive.

(4) (a) Any deficiency of price which may happen on a resale held under sub-rule (16) of rule 121 or clause (k) or (n) of sub-rule (2) of rule 126 by reason of the purchaser's default and all expenses attending such resale shall be certified by the sale officer to the Registrar and shall at the instance of either the decree-holder or the judgment-debtor be recoverable from the defaulting purchaser under the provisions of these rules. The costs, if any, incidental to such recovery shall also be borne by the defaulting purchaser.

(b) Where the property may, on the second sale, fetch higher price than at the first sale, the defaulting purchaser at the first sale shall have no claim to the difference or increase."

5. In view of the same, this writ petition is disposed of by granting liberty to the petitioner to submit her objection by way of a fresh representation before the 4th respondent/the Sale Officer



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tomorrow. On receipt of the same, the 4th respondent/the Sale Officer shall act and take a decision in accordance with Rule 135 Tamil Nadu Co-operative Societies Rules, 1988. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

Note: Issue order copy today

To

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B.PUGALENDHI, J.

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