



W.P(MD)No.24740 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.10.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24740 of 2023

and

W.M.P.(MD)Nos.20919 & 20920 of 2023

T.Murugesapandian

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Veerapandiyapattinam,
Thiruchendur,
Thoothukudi District.

2.The Secretary,
D.C.26, Kurumbur Primary Agriculture Co-operative
Society, Kurumbur,
Eral Taluk,
Thoothukudi District.

3.The Sub-Registrar of Co-operative Societies,
Field Officer-Alwarthirunagari/Sales Officer,
Thoothukudi District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the third respondent in Nima No.1/2022-2023, dated 08.09.2023 and quash the same as illegal.



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For Petitioners : Mr.K.Gokul

For Respondents : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.

2. The petitioner was the president of the second respondent society. He had suffered an order of surcharge under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. Aggrieved by the same, the petitioner has filed C.M.A.(CS).No.20 of 2023 before the Co-operative Tribunal / Principal District Judge, Thoothukudi. In the meanwhile, the impugned auction notice has been issued.

3. The learned counsel for the second respondent points out that when the primary order remains in force, the writ Court will not be justified in entertaining a challenge against the consequential action. Technically, the second respondent's counsel is right. However, the equity obtaining in this case cannot be lost sight of. The appeal filed by the petitioner before the tribunal should be seen as a continuation of the original proceedings. If the properties are auctioned in the mean while, the third party rights would intervene. Let me assume that the petitioner's appeal is allowed. Clock cannot be put back then. It is for this reason, I propose to interfere. The second respondent had incurred



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some amount towards publication. The petitioner shall pay the same tomorrow itself to the second respondent. It will be a non-refundable payment. The petitioner also agrees to pay a further sum of Rs.10,00,000/- to the second respondent before 10.11.2023. This payment will abide by the outcome of C.M.A.(CS).No.20 of 2023 on the file of the Principal District Judge, Thoothukudi. Since the petitioner has given such an undertaking, the impugned auction sale notice is directed to be put on hold. The Co-operative Tribunal / Principal District Judge, Thoothukudi is directed to dispose of C.M.A.(CS).No.20 of 2023 on merits and in accordance with law within a period of four months from the date of receipt of a copy of this order. If the petitioner fails to adhere to the undertaking given before this Court, the benefit of this order will stand automatically vacated. The writ petition will be treated as dismissed.

4. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

12.10.2023

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

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Thoothukudi District.
- 2.The Secretary,
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