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W.P. No. 908 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 908 of 2024
and
W.M.P. No. 934 of 2024**

S.Krishnamurthy

... Petitioner

-VS-

1. The Deputy Registrar of Co-operative Societies/Arbitrator,
O/o. the Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode – 637 211,
Namakkal District.
 2. No. S.351, Tiruchengode Agricultural Producers'
Co-operative Marketing Society Ltd.,
Represented by its Special Officer,
Tiruchengode – 637 211,
Namakkal District.
 3. The Co-operative Sub Registrar/Sale Officer,
No. S.351, Tiruchengode Agricultural Producers'
Co-operative Marketing Society Ltd.,
Mallasamudram Branch @ Kangeyam,
Kangeyam – 638 701,
Tiruppur District.
 4. The Deputy Registrar of Co-operative Societies,
O/o. the Deputy Registrar of Co-operative Societies,
Tarapuram Circle,
Tarapuram,
Tiruppur District.
- Respondents

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Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records with reference to Form Nos. 8 and 9 dated 19.12.2023 issued by the Fourth Respondent in respect of schedule property mentioned therein being land comprised in R.S. No. 314/4 of Mullipuram Village admeasuring to an extent of Hectare of 0.78.5 (Old Ka. Sa. No. 604/4) within Kangeyam Taluk, Tiruppur District and quash the same.

For Petitioner : Mr. R.Thirugnanam
for Mr. S.Umapathy

For Respondents : Mr. B.Vijay,
Additional Government Pleader

ORDER

Heard Mr. R.Thirugnanam, Learned Counsel appearing for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader appearing for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has challenged the notices for auction sale of his property in the exercise of powers conferred under Rule 126(2)(e)(i) of the Tamil Nadu Co-operative Societies Rules, 1988 (hereinafter referred to as 'the Rules' for short), for realization of dues under the arbitral award dated 15.03.2010 in



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Proceedings in Thava No. 56/2009-2010 passed by the Third Respondent,

which has been confirmed in appeal by order dated 19.11.2019 in C.M.A.C.S.

No. 13 of 2017 passed by the Principal District Judge, Namakkal and order dated 10.01.2023 in C.R.P. No. 1394 of 2020 passed by this Court.

3. According to the Petitioner, such auction sale of the property ought not to take place without considering his representation dated 28.12.2023 offering to pay Rs. 2,58,726/- as One Time Settlement. It is further alleged that proper details showing a calculation of the actual amount due has not been furnished and the property brought to sale has been undervalued.

4. In this context, reference must be made to the dictum laid down by the Hon'ble Supreme Court of India in ***Bijnor Urban Cooperative Bank Limited -vs- Meenal Agarwal*** [(2023) 2 SCC 805] that neither any borrower can as a matter of right pray for grant of benefit of One Time Settlement nor the High Court can issue any Writ of Mandamus in the exercise of powers under Article 226 of the Constitution directing the Financial Institution/Bank to positively grant the benefit of One Time Settlement to a borrower. Further, Rule 135 of the Rules enables objections to be raised for any attachment of the property brought for sale. When it was pointed out that the Writ Petition has an effective remedy



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to seek the relief sought in such proceedings, Learned Counsel appearing for the
Petitioner seeks permission of the Court to withdraw the Writ Petition reserving
the rights of the Petitioner to resort to the aforesaid procedure, and he has made
an endorsement to that effect in the court record.

In view of the same, the Writ Petition is dismissed as withdrawn with the
aforesaid clarification. Consequently, the connected Miscellaneous Petition is
closed. No costs.

18.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy on 18.01.2024.

vjt

To

1. The Deputy Registrar of Co-operative Societies/Arbitrator,
O/o. the Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode – 637 211,
Namakkal District.
2. The Special Officer,
No. S.351, Tiruchengode Agricultural Producers'
Co-operative Marketing Society Ltd.,
Tiruchengode – 637 211,
Namakkal District.



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3. The Co-operative Sub Registrar/Sale Officer,
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Co-operative Marketing Society Ltd.,
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Kangeyam – 638 701,
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4. The Deputy Registrar of Co-operative Societies,
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P.D. AUDIKESAVALU, J.

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