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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2024

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.1600 of 2024
and W.M.P.No.1628 of 2024

Vetrivel ... Petitioner

/vs/

1. The Deputy Registrar of Co-operative societies / Arbitrator,
   Tiruppur Circle,
   Tiruppur.

2. The President / Secretary,
   Ne.4511 V.Kallipalayam,
   Primary Agricultural Cooperative Society,
   V.Kallipalayam,
   Tiruppur District. ... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari to call for the records of E.P.No.01/2023-2024/SaPa1, Case No.Ta.Te.3/2020/SaPa1, Ta.Te.4/2003/SaPa1, Form No.6 dated 12.12.2023 on the file of the first respondent and quash the same.

For Petitioner ... Mr.K.Myilsamy

For Respondents ... Mr.G.Nanmaran,

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Special Govt. Pleader for R1

Mr.P.Rajeswari,
Government Advocate for R2

ORDER

The petitioner who is the son of the deceased N.S.Palanisamy. Surcharge proceedings has been initiated against N.S.Palanisamy under Section 87 of the Tamil Nadu Societies Act and Surcharge Awards Nos.4/ 2023 and 3/2020 have been passed. The said awards were challenged the attachment notice issued against the properties of the deceased N.S.Palanisamy by stating that he was not a party to the surcharge proceedings and without hearing him, the demand / attachment notice has been issued for demanding the award amount which is illegal.

2. The surcharge proceedings has been initiated against N.S.Palanisamy during the years 2003 and 2020 and an award has also been passed. Even though N.S.Palanisamy was not alive during the pendency of surcharge proceedings in 3/2020, his wife has been impleaded as a party and proceedings has been initiated in the presence of the legal representative of the deceased N.S.Palanisamy.

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3. Mr.K.Myilsamy, the learned counsel for the petitioner, submitted that the other legal heirs of the deceased N.S.Palanisamy were not impleaded in the surcharge proceedings.

4. The petitioner cannot claim that he did not have the knowledge of the surcharge proceedings. His mother was very much a party to the surcharge award dated 11.05.2021 as she had been impleaded as the legal representative of the deceased N.S.Palanisamy after his death. Neither the mother of the petitioner nor the petitioner with special permission had preferred any appeal over the award or order passed under Section 87 of the Tamil Nadu Societies Act.

5. Obviously, the demand notice has been issued consequent to the surcharge of the award and before attaching the properties of the deceased N.S.Palanisamy. Since the legal heirs of the deceased N.S.Palanisamy have inherited his properties, the first respondent has rightly issued the demand notice. Hence, I find no reason to entertain this writ petition. However, it is up to the petitioner to file any appeal in case the delay is condoned by the first respondent.

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6. Thus, the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

30.01.2024

Index: Yes / No
Speaking order / Non-speaking order
bkn

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To:

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R.N.MANJULA ,J.

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