



WA No.1896 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.02.2024

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WA No.1896 of 2023
and CMP No.16372 of 2023

The General Manager,
No.8994, Tiruchengode Cooperative
Urban Bank Ltd.,
Tiruchengode, Namakkal District.

.. Appellant

-vs-

- 1.S.Kalaimani
2. The Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode, Namakkal District.
3. The Sub Registrar,
Tiruchengode, Namakkal District.
4. The Sub Registrar,
Chinna Dharapuram, Karur District.
5. The Sub Registrar,
Kattuputhur, Trichy District.

.. Respondents

Prayer: Writ appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge dated 03.11.2022 passed in W.P.No.23190 of 2017.



WA No.1896 of 2023

For the Appellant : Mr.R.Balaramesh
For the Respondents : Mr.C.Prakasam for R-1
: Mr.C.Kathiravan
Spl.Government Pleader
for RR 2 to 5
* * * * *

JUDGMENT

(Delivered by the Hon'ble Chief Justice)

We have heard Mr.R.Balaramesh, learned counsel for the appellant, Mr.C.Prakasam, learned counsel for respondent No.1 and Mr.C.Kathiravan, learned Special Government Pleader, for respondent Nos.2 to 5.

2. The present respondent No.1 had filed the writ petition seeking directions against the respondents in the writ petition to remove the encumbrance in so far as it relates to the attachment of the first respondent therein in the subject documents in terms of the order of this Court in W.P.No.18853 of 2016 dated 17.04.2017.

3. The learned Single Judge allowed the writ petition. Aggrieved thereby the present appeal by the original second respondent.



WA No.1896 of 2023

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4. It is submitted that after the first attachment was set aside by this Court under its judgment and order dated 17.04.2017 in W.P.No.18853 of 2016, a fresh order of attachment was issued on 23.04.2018 by the Deputy Registrar of Co-operative Societies, Tiruchengode Circle and the said attachment is still in force.

5. The learned counsel for respondent No.1/original writ petitioner submits that when this Court had set aside the order of attachment, the encumbrance should not subsist and as such, the learned Single Judge has rightly passed the order.

6. The learned Single Judge passed the order on the basis of the judgment and order passed by this Court dated 17.04.2017 setting aside the order of attachment passed in the year 2015. It is submitted that in the said judgment, liberty was granted by this Court to pass fresh orders. Subsequently, fresh orders of attachment are issued by the Deputy Registrar of the Co-operative Societies, Tiruchengode Circle, under order dated 23.04.2018. According to the learned counsel for the appellant, the said order is still in force.



WA No.1896 of 2023

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7. In light of that, the encumbrance cannot be removed. The impugned order is quashed and set aside.

8. It would be open for the respondent No.1/original writ petitioner to assail the conditional attachment order dated 23.04.2018 passed by the Deputy Registrar of Co-operative Societies, Tiruchengode Circle, as may be permissible under law. In that event, all the contentions of the respective parties are kept open.

The writ appeal is, accordingly, allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(S.V.G., CJ.)

(D.B.C., J.)

06.02.2024

Index : Yes/No
Neutral Citation : Yes/No
sra

To

1. The Deputy Registrar of Co-operative Societies,
Tiruchengode Circle,
Tiruchengode, Namakkal District.

Page 4 of 6



WA No.1896 of 2023

WEB COPY

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WA No.1896 of 2023

THE HON'BLE CHIEF JUSTICE
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(sra)

WA No.1896 of 2023

06.02.2024