



WEB COPY



W.P.No.2572 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

**THE HONOURABLE MS.JUSTICE R.N.MANJULA**

**W.P.No.2572 of 2024**  
**and W.M.P.No.2823 of 2024**

A.Parthiban

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,  
Thiruvallur Circle,  
Thiruvallur 602 001.

2.The Sale Officer,  
Office of the Deputy Registrar of Cooperative Societies,  
Tiruvallur 602 001. ... Respondents

**Prayer :** Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Form 7 notice in E.P.No.3/2020-21 issued by the second respondent dated 29.11.2023 (Received only on 29.12.2023) and quash the same and consequently direct the Principal District Judge, (Co-operative Tribunal), Thiruvallur to dispose of petitioner's appeal in C.M.A.No.1 of 2021 and I.A.No.2 of 2021 in C.M.A.Sr.No.4614 of 2021 pending on the file of the Principal District Judge (Co-operative Tribunal), Thiruvallur.



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For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.A.M.Ayyadurai, GA

### **ORDER**

This Writ Petition has been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned Form 7 notice in E.P.No.3/2020-21 issued by the second respondent dated 29.11.2023 (Received only on 29.12.2023) and quash the same and consequently direct the Principal District Judge, (Co-operative Tribunal), Thiruvallur to dispose of petitioner's appeal in C.M.A.No.1 of 2021 and I.A.No.2 of 2021 in C.M.A.Sr.No.4614 of 2021 pending on the file of the Principal District Judge (Co-operative Tribunal), Thiruvallur.

2. Heard Mr.L.P.Shanmugasundaram, learned counsel for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate who takes notice for the respondents.

3. The petitioner has challenged the Form 7 notice issued in E.P.No.3/2020-21 for attaching the property of the petitioner towards



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recovery of surcharge award of Rs.21,55,651/- in pursuant to the surcharge award dated 08.01.2019. The limited contention of the petitioner is that he has challenged the surcharge proceedings by way of filing an appeal and during the pendency of the appeal, a sale notice has been issued in E.P.No.3/2020-21.

4. The learned Government Advocate for the respondents submitted that as such the award has not been stayed and in fact, the appeal said to have been filed by the petitioner is still pending in SR stage.

5. Subsequent to the surcharge award, the respondents have taken execution proceedings by way of filing E.P.No.3/2020-21. In fact a conditional attachment has also been ordered and it has been challenged by the petitioner. Only the said appeal has been numbered as CMA No.1 of 2021 and not the main appeal challenging the surcharge award. Since the petitioner has challenged the order of attachment and the same is pending for hearing, it is pre-mature to issue demand notice. The failure



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to comply the condition in the said notice has resulted in public auction of the property under attachment. Since the very attachment itself is under challenge, the proceedings can be postponed till the disposal of the pending CMA.

**6.** With these observations, this Writ Petition is disposed. No costs.

Consequently, connected miscellaneous petition is closed.

**06.02.2024**

Index : Yes /No

Internet : Yes/No

Speaking / Non-speaking

Neutral Citation : Yes / No

gsk



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To

- 1.The Deputy Registrar of Cooperative Societies,  
Thiruvallur Circle,  
Thiruvallur 602 001.
- 2.The Sale Officer,  
Office of the Deputy Registrar of Cooperative Societies,  
Tiruvallur 602 001.



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**R.N.MANJULA, J.**

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**06.02.2024**