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W.P. No. 6321 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM

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

**W.P. No. 6321 of 2024
and
W.M.P. No.7025 of 2024**

M.Nirvin

... Petitioner

-VS-

1. The Secretary
S.877, Vellari Velli Primary
Agricultural Co-operative Credit Society
Vellari Velli Post, Idapadi Taluk
Salem District.
 2. The Co-operative Sub-Registrar
Sales Officer S.877, Vellari Velli Primary
Agricultural Co-operative Credit Society
Vellari Velli Post, Idapadi Taluk
Salem District.
 3. The Deputy Registrar of Co-operative Societies
Sankari Circle, Kalai Mangal Building
Old Edapadi Road, Sankari - 637301.
- Respondents

...

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Second Respondent to consider the claim cum objection petition dated 14.02.2024 (in person) and on 02.03.2024 (through Post) and conduct an enquiry under Rule 135 of Tamil Nadu Co-operative Rules, 1988.



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For Petitioner : Mr. V.Sekar
For Respondents : Mr. P.Sathish
Additional Government Pleader

ORDER

Heard Mr. V.Sekar, Learned Counsel for the Petitioner and Mr. P.Sathish, Learned Additional Government Pleader who takes notice for the Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioner that he has on 14.02.2024 (in person) and 03.03.2024 (through post) made an application under Rule 135 of the Tamilnadu Cooperative Societies Rules, 1988 (hereinafter referred to as 'the Rule' for short) raising these objections for the attachment of the property for recovery of amounts due from him that has been determined by the First Respondent in the surcharge proceedings under Section 87 of the Rules, but as it did not evoke any response, it has necessitated the filing of this Writ Petition.

3. Learned Additional Government Pleader appearing for the Respondents, on instructions, states that the objections raised would be disposed within a period of four weeks and he has made an endorsement to that effect.



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4. At this juncture, it must be noticed that Rule 135 of the Rules which mandates that where any claim or objection is made to the attachment of any property attached under those Rules on the ground that such property is not liable to any attachment it shall be incumbent upon the Sale Officer to investigate the claim or objection and dispose of it on merits.

5. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) it shall be incumbent upon the concerned authority to immediately examine the applications made on 14.02.2024 and 03.03.2024 by the Petitioner under Rule 135 of the Rules raising his objections for the attachment of the property in the impugned proceedings including ascertaining as to whether the Petitioner would be entitled for the relief claimed;
- (ii) if it is found that any other details or supporting documents are necessary, the deficiencies in that regard shall be informed in writing to the Petitioner or any other person as may be deemed necessary requiring the same to be furnished within a time frame of not less than 15 days for the same;



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(iii) in the event of not being satisfied with the requirements even thereafter,

an enquiry shall be conducted affording full opportunity of personal hearing to the Petitioner and all other persons concerned to explain their position in that regard;

(iv) a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment;

(v) the impugned auction sale of the property shall be deferred till the aforesaid exercise is completed; and

(vi) if any adverse decision is taken, the Petitioners may pursue legal remedies before the proper forum in the manner recognized by law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions is closed. No costs.

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Index: Yes/No
NCC: Yes/No

Note: Issue order copy by 17.04.2024.

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To

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P.D. AUDIKESAVALU, J.

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