



W.P.No.8243 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No.8243 of 2019

and

W.M.P.Nos.8800 & 8801 of 2019

V.Anand

.... Petitioner

Vs

1.The Deputy Registrar of Co-operative Societies,
Hosur Circle, Hosur.

2.The Sub Registrar,
Shoolagiri, Krishnagiri District.

3.T.K.80, Berigai Primary Agricultural
Co-operative Credit Society Ltd.,
Rep. by its Vice-President,
Hosur, Krishnagiri District.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records of the order of the 1st respondent in CEP No7/2018-19 dated 08.03.2019 quash the same and direct the respondents 1 and 2 to raise the order of attachment in Survey Nos.114/1, 114/2, 114/4, 35/1, 93/2A and 93/2B total extent 21.36 acres



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For Petitioner : Mr.S.Kamadevan
For R1 & R2 : Mr.M.Rajendran
Additional Government Pleader
For R3 : Mr.S.V.Durai Solaimalai

ORDER

This Writ petition has been filed challenging the order of attachment passed by the first respondent in CEP No7/2018-19 dated 08.03.2019, under Section 167(2) of the Tamil Nadu Co-operative Societies Act, thereby attaching the property belonging to the petitioner, comprised in Survey Nos.114/1, 114/2, 114/4, 35/1, 93/2A and 93/2B admeasuring 21.36 acres.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. The petitioner was the elected President of the third respondent Society for the period from 09.05.2013 to 08.05.2018 and again from 06.08.2018. During his tenure from 2013 to 2018, there was a misappropriation of funds and as such, an enquiry was ordered under



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Section 81 of the Tamil Nadu Co-operative Societies Act. The Enquiry Officer submitted a report and pursuant to the said report, the first respondent initiated a surcharge award enquiry. Pending the enquiry, the second and third respondents filed an application under Section 90 of the Tamil Nadu Co-operative Societies Act and on receipt of the same, the first respondent numbered it as CEP No.7/2018-19 and passed an order of attachment under Section 167(2) of the Tamil Nadu Co-operative Societies Act.

4. The only contention raised by the petitioner is that the petitioner was served with a notice on the application submitted by the respondents 2 and 3 herein. On receipt of the same, the petitioner submitted a detailed explanation. However, the said explanation was not at all considered and no reasons were mentioned in the order of attachment.

5. A perusal of the records reveals that on the basis of the enquiry report under Section 81 of the Tamil Nadu Co-operative Societies Act, the first respondent initiated a surcharge award enquiry under



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Section 87 of the Tamil Nadu Co-operative Societies Act, which is still pending. Pending the surcharge award enquiry, the respondents 2 and 3, in order to attach the property as contemplated under Section 90 of the Tamil Nadu Co-operative Societies Act, submitted an application. As per the enquiry report, a prima-facie case has been made as against the petitioner. The misappropriation by the petitioner has passed by the second respondent to the tune of Rs.4,11,62,580/-. Therefore, the third respondent rightly filed an application to attach the property and an order has now been passed under Section 167(2) of the Tamil Nadu Co-operative Societies Act.

6. In view of the above, this Court finds no infirmity or illegality in the order of attachment passed by the first respondent under Section 167(2) of the Tamil Nadu Co-operative Societies Act. Thus, the writ petition lacks merit and is liable to be dismissed. The first respondent is directed to pass final award under Section 87 of the Tamil Nadu Co-operative Societies Act within a period of twelve weeks from the date of receipt of a copy of this order, if not already passed.



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7. With the above direction, this writ petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

No costs.

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Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

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To

1.The Deputy Registrar of Co-operative Societies,
Hosur Circle,
Hosur.

2.The Sub Registrar,
Shoolagiri,
Krishnagiri District.



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G.K.ILANTHIRAIYAN, J.

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