



WEB COPY



W.P.No.14040 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.14040 of 2024
and
W.M.P.No.15222 of 2024

R.Seerangan

...Petitioner

Vs

1.The Deputy Registrar Co- Operative Societies,
Omalur Circle,
Omalur.

2.The Sub - Registrar,
Registration Department,
Mechari, Salem - District.

3.The Sub - Registrar,
Registration Department,
Verapandi,
Salem District.

4.The Sub - Registrar,
Registration Department,
Salem West -1
Salem District.

5.The Administrator,
S.M.84, JSW Steel Employees
Cooperative Thrift And Credit Society,
Pottaneri, Salem- 636 453.

(R5-Impleaded as per order dated 30.05.2024
in WMP.No.15518/2024 in W.P.No.14040/2024)

...Respondents



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Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for entire records pertaining to the orders of conditional attachment passed by the 1st respondent in E.P.No.01/2024 -2025 dated 06/05/2024 with regard to the properties of the petitioners wife, Kokila, daughter, Suganya and son- in law, Senthil Kumar.

For Petitioner : Mr.L.P.Shanmugasundaram
For R1 : Mr.M.Rajendran
Additional Government Pleader
For R2 to R4 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R5 : Mr.M.S.Palaniswamy

ORDER

This Writ Petition has been filed as against the order of attachment passed under Section 167 of Tamil Nadu Co-operative Societies Act, 1983 on the file of the first respondent dated 06.05.2024.

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

3. The petitioner was working as Assistant Secretary/Manager in the Mecheri Primary Agricultural Cooperative Society. Thereafter, he



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was permanently absorbed in JSW Steel Employees Cooperative Thrift and Credit Society Ltd on 14.07.2006 as Secretary. Thereafter, he was permitted to retire from service on 31.05.2019 on attaining the age of superannuation. While being so, on several complaints, it was found that the petitioner and two others had misappropriated huge money of the fifth respondent Society. Therefore, an enquiry was ordered under Section 81 of the Tamil Nadu Co-operative Societies Act. Pending the enquiry, the first respondent submitted an application under Section 90 of the Tamil Nadu Co-operative Societies Act to attach the property of the petitioner. On receipt of the same, the first respondent passed an order of attachment under Section 167 of the Tamil Nadu Co-operative Societies Act.

4. The learned counsel appearing for the petitioner submitted that the attachment can be passed under Section 167 of the Tamil Nadu Co-operative Societies Act only in the surcharge proceedings initiated under Section 87 of the Tamil Nadu Co-operative Societies Act and also if there is any apprehension that any party is about to dispose of or remove from the local limits of the jurisdiction of the Registrar, the order of attachment can be passed. In the case on hand, no enquiry report so



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far submitted under Section 87 of the Tamil Nadu Co-operative Societies Act.

5. He further submitted that no proceedings was pending under Section 87 of the Tamil Nadu Co-operative Societies Act and no notice was served on the petitioner. Therefore, it is a clear violation of principles of natural justice and the order impugned in this writ petition cannot be sustained and it is liable to be quashed. In support of his contention, he relied upon the Judgment of this Court reported in **MANU/TN/0280/2009** in the case of ***V.Sundaram Vs. The Deputy Registrar Cooperative Societies (Milk) Vellore Circle and others,*** wherein this Court held as follows :

“....6. A plain reading of Section 167 of the Tamil Nadu Cooperative Societies Act would make it clear that an order of attachment before Judgment under Section 167(1) of the Act or conditional attachment under Section 167(2) of the Act could be made only in cases where there is already a case pending on the file of the Deputy Registrar either under Section 87 or under Section 90 or under Section 130 or under Section 139 of the Tamil Nadu Co-operative Societies Ac. Without satisfying the said condition precedent, it is not at all



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available for the Deputy Registrar to issue any order under Section 167 of the above said Act. Here, the proceeding Number itself is Cooperative Executive petition No.1/2008. It is contended that the petitioner has paid fees prescribed under the Tamil Nadu Cooperative Rules for Execution of a decree. I am at a loss to understand as to how n execution petition could be entertained by the Deputy Registrar when there is no award at all capable of being executed. In that view of the matter, I have to necessarily hold that the impugned order is without jurisdiction and therefore, the same is liable to be quashed”.

6. The co-delinquent was also issued an order of attachment under Section 167 of the Tamil Nadu Co-operative Societies Act and he approached this Court in W.P.No.25274 of 2024. This Court, by an order dated 29.08.2024, allowed the writ petition with liberty to the respondents to proceed as against him in accordance with law.

7. A perusal of the counter filed by the first respondent and the submissions made by the learned Additional Government Pleader reveals that the petitioner, while was working as Secretary of the fifth respondent Society from 04.07.2006 to 31.05.2019, committed so many



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frauds with regards to members loan account, thrift deposit and deposit loan and share capital to the tune of Rs.10,58,63,057/- along with another Secretary and the Computer Operator. Therefore, an enquiry was ordered under Section 81 of the Tamil Nadu Co-operative Societies Act. On the basis of the preliminary inspection report dated 29.03.2024, the first respondent, by the proceedings dated 25.04.2024, ordered for enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act.

8. In the meanwhile, the fifth respondent filed an application before the first respondent under Section 90 of the Tamil Nadu Co-operative Societies Act to attach the property. On receipt of the said application, the first respondent, a *prima-facie* case on the application, passed an order under Section 167 of the Tamil Nadu Co-operative Societies Act. It is also seen that the properties, which were attached by an order dated 06.05.2024, were produced during his tenure, i.e., when entered into the service of the fifth respondent as Secretary. Further, it is an ex-parte order after satisfying the reasons stated in the application filed under Section 90 of the Tamil Nadu Co-operative Societies Act.



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9. Therefore, the contention of the petitioner that he was not served with any notice and no enquiry was conducted before attaching the property cannot be countenanced. It is only the attachment of the properties. If in the enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, no mistakes are found as against the petitioner, the conditional attachment will be automatically cancelled. If anything is found as against the petitioner in the enquiry conducted under Section 81 of the Tamil Nadu Co-operative Societies Act, the surcharge proceedings will be initiated under Section 87 of the Tamil Nadu Co-operative Societies Act. The petitioner has been charged to disprove the enquiry report in the 87 proceedings. Therefore, the above judgment cited by the petitioner is not applicable to the case on hand, since the fifth respondent filed an application under Section 90 of the Tamil Nadu Co-operative Societies Act, in which the first respondent rightly ordered attachment of property under Section 167 of the Tamil Nadu Co-operative Societies Act.

10. In view of the above, this Court finds no infirmity or illegality in the order of attachment passed under Section 167 of Tamil Nadu Co-operative Societies Act, 1983 by the first respondent dated



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06.05.2024. Thus, the writ petition lacks merits and it is liable to be dismissed. Accordingly, this writ petition stands dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

21.10.2024

Internet : Yes/No
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

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