



W.P. No.14778 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2024

CORAM:

THE HONOURABLE **Mrs. JUSTICE V. BHAVANI SUBBAROYAN**

W.P. No.14778 of 2024
and W.M.P.No.16013 & 16014 of 2024

S.Malligeswari

.. Petitioner

Versus

1. The Deputy Registrar of Cooperative Societies,
Villupuram Circle,
Villupuram – 605 602,
Villupuram District.
2. The General Manager,
Villupuram District Central Cooperative Bank Ltd.,
No.2, Hospital Road,
Villupuram – 605 602.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the first respondent in his proceedings R.C.1082/2024/SAPA (CEP-1/2024-25), dated 17.05.2024 and quash the same.

For Petitioner : Ms.R.Hemalatha

For Respondents : Mr.V.Nanmaran
Additional Govt. Pleader for R1

Mr.R.Arumugam for R2



W.P. No.14778 of 2024

ORDER

This writ petition has been filed to quash the impugned order passed by the first respondent in his proceedings R.C.1082/2024/SAPA (CEP-1/2024-25), dated 17.05.2024.

2. The case of the petitioner is that she had purchased a house site to an extent of 800 sq. ft. building area together with 1039 ½ sq.ft., which is situated in S.No.21/3, Panampattu Village, Villupuram Municipal Limit vide registered sale deed in Document No.4552/2023. The petitioner's husband R.Saravanan was working as Assistant General Manager in the Villupuram District Central Cooperative Bank Ltd., Villupuram. While he was discharging his duties as Assistant General Manager, the first respondent herein ordered enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act with regard to the alleged irregularities committed in the construction of office building for head office as well as branch offices of the second respondent bank. After enquiry, the first respondent passed attachment order under Section 167 of the Tamilnadu Cooperative Societies Act in his proceedings in R.C.No.1082/2024/SAPA (CEP-1/2024-25) dated 17.05.2024, attaching the petitioner's house. Aggrieved over the same, the present writ petition has been filed.



W.P. No.14778 of 2024

3. The learned counsel for the petitioner submitted that the construction work was not entrusted to the petitioner exclusively, however all the higher officials including the first respondent and the Joint Registrar of Cooperative Societies and managing Director of the said bank carried out the said works including supervision of the said work and dealt with finance. But the petitioner's husband was made as a scapegoat for all the irregularities, even though all the benefits are enjoyed by the higher officials. Only in order to escape from the clutches of law, the liabilities have been shifted on the petitioner's husband. It is the contention of the learned counsel for the petitioner that before passing any surcharge order against the petitioner's husband and others, the first respondent has passed the attachment order.

4. The learned Additional Government Pleader appearing for the first respondent submitted that the first respondent ordered statutory inquiry under Section 81 of the Act, 1983 and appointed Enquiry Officer with instruction to submit a report. The Enquiry Officer conducted proper enquiry and obtained deposition including the appellant and submitted his report on 10.11.2023 and recommended to initiate surcharge proceedings for the loss incurred. Only after examining the recommendation of the Enquiry Officer, the first respondent issued surcharge Notice under Section 87 of the Act, 1983. The attachment of



W.P. No.14778 of 2024

property of the petitioner was ordered only as per Section 167 of the Act, 1983.

Section 87 of the Act, 1983 enables the Registrar of Coop. Societies to initiate Surcharge proceedings for recovery of loss caused to the society. Only after giving reasonable opportunity as prescribed under Section 87 of the Act, 1983, the surcharge award has been passed. The petitioner and her husband are living in the same house and as directed in the notice, either the petitioner or her husband did not furnish any security. Hence the first respondent has passed the attachment order.

4.1 The petitioner and her husband knows well that the impugned property is liable for attachment for the grave financial irregularities committed by her husband and thereby huge loss caused to the bank. It is the contention of the learned Additional Government Pleader that if the petitioner is really aggrieved by the attachment order of the first respondent, she might have filed objection / claim petition before the Deputy Registrar, Villupuram under Rule 135 of the Tamil Nadu Co-operative Societies Rulers, 1988. But till date they have not done so for the reasons best known to them. Hence the present petition is not maintainable as the petitioner cannot challenge the attachment by way of filing a writ petition.



W.P. No.14778 of 2024

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5. The learned counsel for the second respondent submitted that the writ petition is not maintainable in law and on facts. If the petitioner is aggrieved of the attachment order, it is open to her to file an application under Rule 135 of Tamil Nadu Cooperative Societies Rules, 1988. The petitioner without exhausting the said statutory alternative remedy filed the present writ petition. Hence, the petition is liable to be dismissed.

6. On a perusal of the records it is seen that surcharge order has been passed against the petitioner's husband and the impugned property has been attached vide attachment order dated 17.05.2024. The present petition has been filed to quash the said attachment order. This Court in similar other cases has dismissed the writ petitions and directed to approach the concerned authority under Rule 135 of Tamil Nadu Co-operative Rules, 1988. Hence, it is open to the petitioner that if she has got any objections or claim, she can approach the appropriate authority under Rule 135 of Tamil Nadu Cooperative Rules, 1988.



W.P. No.14778 of 2024

7. In the result, the Writ Petition is dismissed. No costs. Connected

miscellaneous petitions are closed.

18.06.2024

Index:Yes / No

Speaking order / Non speaking order

Neutral Citation Case: Yes / No

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W.P. No.14778 of 2024

To
WEB COPY

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W.P. No.14778 of 2024

V. BHAVANI SUBBAROYAN, J.,

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W.P. No.14778 of 2024

18.06.2024