



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15-07-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM

And

THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

WA No.2118 of 2021

And

CMP No.13420 of 2021

K.Ashokkumar

.. Appellant

-VS-

1.The Deputy Registrar of Cooperative Societies,
Mayiladuthurai Circle,
Mayiladuthurai,
Mayiladuthurai District.

2.The Managing Director / Deputy Registrar,
Mayiladuthurai Consumer's Cooperative
Wholesale Stores Ltd., T.917,
No.15-B, Narayana Pillai Street,
Mayiladuthurai – 609 001,
Mayiladuthurai District.

.. Respondents

Writ Appeal is preferred under Clause 15 of the Letters Patent against
the order passed by this Court in WP No.5374 of 2021 dated 15.03.2021.



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For Appellant : Mr.C.Prakasam
For Respondents : Mr.S.Ravikumar,
Special Government Pleader (Co-op.).

J U D G M E N T

[JUDGMENT OF THE COURT WAS DELIVERED

BY S.M.SUBRAMANIAM, J.]

The writ petition has been instituted by the writ appellant challenging Form No.6 notice issued under Rules 119 and 126 of the Tamil Nadu Cooperative Societies Rules, 1988.

2. The Writ Court disposed of the writ petition by granting liberty to the appellant to workout his remedy before the Appellate Authority/Sale officer within a period of one week from the date of receipt of a copy of that order.

3. Mr.C.Prakasam, learned counsel appearing on behalf of the appellant would mainly contend that the wife of the appellant was an employee of the Cooperative Society. Surcharge proceeding under Section



87 of the Tamil Nadu Cooperative Societies Act was initiated. The property stands in the name of the appellant was proposed to be auctioned. Thus the writ petition was instituted. The property of the appellant is no way connected with his wife, since it was purchased prior to her appointment in the Cooperative Society.

4. The learned Special Government Pleader, appearing on behalf of the respondents, would oppose by stating that the wife of the appellant has already preferred Civil Miscellaneous Appeal under Section 152 of the Tamil Nadu Cooperative Societies Act, before the Special Tribunal for Cooperative Cases/Principal District Judge.

5. If at all the Civil Miscellaneous Appeal is pending, it is for the appellant to initiate appropriate action to challenge the auction notice in the said proceedings. If the Civil Miscellaneous Appeal has already been disposed of, then the petitioner either through his wife or himself may initiate all appropriate actions in the manner known to law. However, the auction notice issued under Tamil Nadu Cooperative Societies Rules, need not be adjudicated in the writ proceedings and in the present Writ Appeal.



Once the Surcharge order itself is under challenge under Section 152 of the Tamil Nadu Cooperative Societies Act, the parties are bound to workout their remedy in the said appeal and therefore, we are not inclined to entertain the present Writ Appeal.

6. Accordingly, the present Writ Appeal stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

(S.M.SUBRAMANIAM,J.) (C.KUMARAPPAN,J.)

15-07-2024

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