



W.P.No.22971 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P. No.22971 of 2024
and
W.M.P. No.25037 of 2024

Mrs.V.Neela

... Petitioner

Vs

- 1.The Managing Director,
The Saidapet Co-operative Primary Agriculture and
Rural Development Bank Ltd.,
No.52, North Park Street,
Ambattur, Chennai-600 053.
 - 2.The Deputy Registrar of Co-operative Societies,
No.52, Thaluk Office Road,
(LIC Building Back Side),
Ponneri, Thiruvallur District-601 204.
 - 3.The Joint Registrar of Co-operative Societies,
Thiruvallur Collector Office Back Side,
Thiruvallur.
 - 4.The Registrar of Co-operative Societies,
No.170, EVR High Road,Kilpauk, Chennai-600 010.
 - 5.The Sub Registrar,
Ashok Nagar, Chennai.
- ... Respondents



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PRAYER:- Writ Petition is filed under Article 226 of Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned proceedings bearing No.Ve.Ma.2/2022-2023 dated 21.03.2023 passed by the 2nd Respondent insofar as it relates to the house property bearing Survey No.391/1 part, situated at K.K.Nagar, Chennai District and measuring to an extent of 880 square feet, belonging to the petitioner and quash the same, consequently direct to the 5th Respondent to remove the entry of attachment made in the encumbrance certificate of the subject property.

For Petitioner : Ms.Meera Gnanasekar

For Respondents : Mr.R.P.Murugan Raja
Government Advocate

ORDER

The writ petition has been filed challenging the order of attachment dated 21.03.2023 passed by the 2nd Respondent insofar as it relates to the property bearing Survey No.394/1 part situated at K.K.Nagar, Chennai, measuring 880 square feet.



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2. The petitioner owned property comprising Survey No.394/1 situated in K.K.Nagar, Chennai, which was originally allotted in favour of the petitioner as residential plot by the Tamil Nadu Housing Board. Thereafter, the Tamil Nadu Housing Board executed a sale deed in their favour by the sale deed dated 07.11.1985 registered as Document No.3463 of 1985.

3. While being so, the petitioner had executed settlement deed in favour of her elder son S.Prabhuram on 03.03.2010. Thereafter, the petitioner cancelled the settlement deed on 20.05.2022. The said property was attached in execution petition No.2/2022-2023 under Section 143 of the Tamil Nadu Co-operative Societies Act, 1983 (hereinafter referred to as “the Act”).

4. The learned counsel for the petitioner would submit that the petitioner is a stranger to the proceedings and she is no way connected with any proceedings initiated as against her son. The property which was



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originally purchased by the petitioner and after settlement in favour of her son was cancelled by the cancellation of settlement deed dated 20.05.2022 for the reason that the petitioner's son failed to maintain the petitioner as stated by her while executing the settlement deed in his favour. The petitioner was not served with any notice and she had no knowledge about the execution proceedings as against the property owned by her. She is aged about 85 years and except the subject property no other property is owned by her in order to meet out her dailyhood expenses.

5. Perusal of the documents and also the submissions made by the learned counsel for the Respondents would reveal that the petitioner's son had misappropriated several lakhs and as such inquiry was conducted under Section 81 of the Act. Pursuant to the inquiry report, surcharge proceedings were initiated under Section 87 of the Act. Accordingly, the petitioner's son was directed to pay a sum of Rs.19,92,193/- and the aforesaid sum was directed to be recovered from him. It was further directed to take disciplinary proceedings as against the petitioner's son. Even then the petitioner's son did not comply with the said order and as per the surcharge



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order the execution proceedings was initiated in the year 2022 by the 1st Respondent in Ne.Ve.Ma.2/2022-2023 before the 2nd Respondent. After initiation of execution proceedings on the ill advice of her son the petitioner and her son went to the Register office and executed cancellation of settlement deed dated 20.05.2022 in order to escape from the clutches of execution proceedings.

6. Now, the petitioner raised a ground that the petitioner had no knowledge about any of the proceedings as against the petitioner's son and execution proceedings as against the property which was settled in favour of her and her son. It is also seen from the recital of the settlement deed that it was cancelled on the ground of family administrative reasons whereas in the affidavit she averred that after execution of settlement deed the petitioner's son failed to maintain the petitioner, therefore, the petitioner cancelled the settlement deed. Further, it was not cancelled unilaterally and the cancellation of settlement deed was executed only in their presence, if at all there was any dispute between the petitioner and her son, the petitioner would not have come to the register office for execution of cancellation of



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settlement deed. That apart, the settlement deed was executed in the year 2010 and after a period of 12 years, the petitioner cancelled the settlement deed on 20.05.2022. Therefore, it is crystal clear that in order to safeguard the subject property from the execution proceedings the petitioner and her son connived together and executed cancellation of settlement deed. That apart, the impugned order is only an order of attachment and as such there is no infirmity in the order passed by the 2nd Respondent.

7. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index: Yes/No
Speaking Order: Yes/No
Neutral Citation: Yes/No
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