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W.P.No.29890 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2024

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THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.29890 of 2022

and

W.M.P.Nos.29281 & 29282 of 2022

A.Manokaran

.... Petitioner

Vs

1.The Sub Registrar of Co- Operative Societies,
Auction Sale Officer,
Hosur Circle, Hosur,
Krishnagiri District.

2.K.K.127, Hosur Primary Agricultural
Co-Operative Credit Society Ltd.
Rep by its President, Hosur,
Krishnagiri District.

3. K.Mani

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records of the proceedings of the 1st respondent in Ni. Ma.A. No.2/2001- 2002, 3/2001-2002 dated 14.10.2022 and quash the same and consequently forebear the respondents 1 and 2 from disturbing the peaceful possession of the property of the petitioner in S.No. 40-1B2, 40-1, 40-2, 45-2, 46, 47, 40-2 of Sennathur Village in Hosur Taluk and S.No.11-1A and 11-1B in Hosur Village without following the due process of law.



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For Petitioner : Mr.C.Vigneswaran
For R1 & R2 : Mr.M.Murali
Government Advocate
For R3 : Mr.R.Bharath Kumar

ORDER

This Writ Petition has been filed challenging the sale confirmation order dated 14.10.2022.

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

3. The petitioner was elected as the President of the second respondent Society in the year 1996. On receipt of several complaints, the first respondent ordered an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act. After conducting a detailed enquiry, the Enquiry Officer submitted a report before the first respondent. Based on the enquiry report, the first respondent initiated a surcharge proceedings and passed an order under Section 87 of the Tamil Nadu Co-operative Societies Act and passed two sets of awards as against the petitioner. Insofar as the first award is concerned, it was passed on



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14.12.2001 and directed the petitioner and another, who was the Secretary, are jointly or severally liable to pay a sum of Rs.29,98,815/-.

The first respondent passed another award dated 21.12.2001, thereby ordered to recover a sum of Rs.42,41,813/- payable by six persons including the petitioner and they are liable to pay the said amount jointly or severally.

4. Pursuant to the enquiry report, a criminal case was registered as against the petitioner and others and the petitioner is now facing trial in the criminal case. Both surcharge orders passed by the first respondent were under challenged before the Tribunal in CMA Nos.8 to 10 of 2002 by other delinquents. The said challenge was dismissed by a Judgment and Decree dated 17.02.2010. Once again the said order was challenged before this Court in CRP.Nos.1614 of 2010, 2583 of 2010 and 2335 of 2012. This Court, by an order dated 10.04.2019, confirmed the awards passed by the Tribunal. Aggrieved by the same, they filed an appeal before the Hon'ble Supreme Court of India.

5. The Hon'ble Supreme Court of India dismissed the appeal, thereby the surcharge orders passed by the first respondent was



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confirmed. After dismissal of the CRPs, the first respondent initiated proceedings to recover the award amount. While challenging the surcharge orders and in view of the interim orders, one of delinquent viz., the Secretary of the second respondent Society, had paid a sum of Rs.38,00,000/-. Thereafter, the petitioner was issued with auction sale notices in respect of the properties belonging to him. Both notices were challenged in W.P.Nos.25941 & 25944 of 2022. Pending the writ petitions, the properties were brought for auction and the third respondent had purchased the properties for a total sale consideration of Rs.4,05,00,000/-.

6. The learned counsel for the petitioner would submit that the property was brought to auction by an auction notice without even mentioned the interest and simply mentioned the award amount. Further, without deducting the amount which was award by one of the delinquent viz., the Secretary, the property was auctioned for a total amount of Rs.4,05,00,000/-. Further, there is huge delay to bring the property for auction. The surcharge orders passed in the year 2001. As stated supra, though the surcharge orders were passed in CMA Nos.13 and 14 of 2002 by orders dated 14.12.2001 and 21.12.2001, both were challenged before



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this Court by some of the delinquent. After dismissal, they preferred Civil Revision Petitions before this Court and finally, they also went on appeal before the Hon'ble Supreme Court of India. Therefore, it cannot be said that there is a delay in bringing the property for auction sale. Further, both the surcharge orders were passed by the first respondent, thereby ordered that all the delinquents are jointly or severally liable to pay the award amount. As a result, the entire amount can be recovered from any one of the delinquents. As per the calculation, along with the interest at the rate of 21%, the delinquents are liable to pay a sum of Rs.3,88,88,521/-. The third respondent had purchased the property for a total sale consideration of Rs.4,05,00,000/-.

7. The learned Government Advocate appearing for the respondents 1 and 2 would submit that if there is any excess amount after receiving the sale consideration and adjusting the interest, if any, it will be returned to the petitioner.

8. In view of the above, this Court finds no infirmity or illegality in the auction sale confirmation order dated 14.10.2022. Therefore, the writ petition lacks merit and is liable to be dismissed.



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However, the petitioner is at liberty to seek a reduction in the interest rate. On receipt of the such request, the first respondent is directed to consider the same while returning any balance amount, if applicable. The first respondent is directed to issue the sale certificate and hand over the vacant possession of the subject property, which was purchased by the third respondent forthwith.

9. In the result, this writ petition stands dismissed.

Consequently, connected miscellaneous petitions are closed. No costs.

22.10.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
Lpp

To
1.The Sub Registrar of Co- Operative Societies,
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Krishnagiri District.

2.The President
K.K.127, Hosur Primary Agricultural
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Hosur,



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