



WP.Nos.39275 & 39278
of 2024

In the High Court of Judicature at Madras

Dated : 21.12.2024

Coram :

The Honourable Ms.Justice P.T.ASHA

Writ Petition Nos.39275 & 39278 of 2024

K.797 Kongalnagaram Primary
Agricultural Cooperative
Credit Society, rep.by its
Secretary

...Petitioner in
both WPs

Vs

The Sub-Registrar, Registration
Department, Udumalaipettai
Taluk, Tirupur District.

...Respondent in
both WPs

PETITIONS under Article 226 of The Constitution of India praying for the issuance of Writs of Mandamus directing the respondent to register the sale certificates issued by the Deputy Registrar of Cooperative Societies, Dharapuram Circle under Rule 129 (3) of the Tamil Nadu Cooperative Societies Rules, 1988 in favour of the petitioner in Ne.Ma.69/2017-2018/Sa.Pa and Ne.Ma.74/2017-2018/Sa.Pa both dated 22.9.2023 without insisting stamp duty and registration fees, which are exempted under the provisions of Section 51 of the Tamil Nadu Cooperative Societies Act.



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For Petitioner : Mr.M.Palaniswamy
For Respondent : Mr.B.Vijay, AGP

COMMON ORDER

The writ petition has been filed seeking a Mandamus to the respondent to register the sale certificates issued by the Deputy Registrar of Cooperative Societies, Dharapuram Circle in favour of the petitioner without insisting upon the stamp duty and the registration fees.

2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader accepting notice for the respondent.

3. The case of the petitioner is as follows :

(i) The petitioner is a registered society under the Tamil Nadu Cooperative Societies Act and is governed by the Tamil Nadu Cooperative Societies Rules, 1988. One Mr.P.Jayachandran Sekar, who was working as a Senior Clerk and one Mr.G.Gunasekaran, who was working as a Secretary, committed various misfeasance and malfeasance into the affairs of the petitioner society. Hence, an inquiry was ordered under Section 81 of the said Act and report was submitted by the Enquiry Officer dated 20.8.2015 after finding that the



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said Mr.P.Jayachandran Sekar and the said Mr.G.Gunasekaran committed various irregularities and misappropriated the funds of the petitioner society and recommended to take action against the delinquent employees including recovery of loss suffered by the petitioner society.

(ii) Pursuant to that, a surcharge order dated 12.5.2017 came to be passed by the Deputy Registrar of Cooperative Societies, Dharapuram Circle for a sum of Rs.9.14 Crores against the said Mr.P. Jayachandran Sekar and the said Mr.G.Gunasekaran. Subsequently, the petitioner society filed E.P.No.69/2017-18/SF and E.P.No.74/2017-18/SF under the said Act before the Deputy Registrar of Cooperative Societies, Dharapuram Circle to recover the amounts from the judgment debtors.

(iii) Upon receipt of the said execution petitions, the Deputy Registrar of Cooperative Societies, Dharapuram Circle appointed the Sale Officer to bring the properties of the said judgment debtors for sale by way of a public auction. Thereafter, two sale notices both dated 28.6.2023 came to be issued in respect of the properties in (i) T.S.Nos.54 and 383/A3D measuring 2,998 sq.ft., Earipalayam, Karikalan Street, Ward B, Block 1, Udumalaipet Town, Tirupur District owned by the wife of the said Mr.P.Jayachandran Sekar and (ii) S.No.



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163 measuring 3,354 sq.ft, Periyakottai Village, Udumalaipettai Taluk, Tirupur District owned by the wife of the said Mr.G.Gunasekaran.

(iv) In the said public auction conducted by the Sale Officer, the petitioner society quoted highest bids in respect of the said properties and was declared as the successful bidder and the sale was confirmed (i) on 10.8.2023 in respect of the first property for a sum of Rs.83 lakhs and (ii) on 01.8.2023 in respect of the second property for a sum of Rs.34,66,000/-. Based on the confirmation of sale in respect of the said properties, the Deputy Registrar of Cooperative Societies, Dharapuram Circle issued two sale certificates in favour of the petitioner society on 22.9.2023.

(v) After issuance of the said sale certificates dated 22.9.2023, on the same day, the Deputy Registrar of Cooperative Societies, Dharapuram Circle addressed two letters to the respondent requesting to register the sale certificates in favour of the petitioner. After receipt of the sale certificates, the respondent orally informed the petitioner society that they must pay stamp duty. Further, without any authority whatsoever, the respondent is keeping the sale certificates pending for more than a year. Hence the writ petitions.

4. This Court has carefully considered the submissions of the



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

5. In the considered view of this Court, the reluctance on the part of the respondent to register the sale certificates under Section 89 of the Registration Act would, prima facie, amount to contempt of the various orders passed by the Hon'ble Supreme Court as well as this Court wherein it has been held that the registration contemplated under Section 89(4) of the Registration Act is only for the purpose of filing and therefore, it does not attract stamp duty nor registration fees. The conduct of the respondent is in contra distinction to the registration contemplated under the Registration Act. Further, the Deputy Registrar of Cooperative Societies is also a Revenue Officer for the purpose of Section 89 of the Registration Act.

6. Useful reference can be made to the decision of the Hon'ble Supreme Court in the case of ***Inspector General of Registration & another Vs. G.Madhurambal & another [reported in 2022 SCC Online SC 2079]*** and the latest judgment of the Supreme Court in the case of ***State of Punjab Vs. M/s. Ferrous Alloy Forgings Pvt. Ltd. [Civil Appeal No.12527 of 2024 dated 19.11.2024]***.



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7. In the light of the above, the respondent cannot insist upon payment of stamp duty for a mere filing under Section 89(4) of the Registration Act.

8. Accordingly, the writ petitions are allowed and the respondent is directed to register the sale certificates both dated 22.9.2023 issued by the Deputy Registrar of Cooperative Societies, Dharapuram Circle within a period of two weeks from the date of receipt of a copy of this order. No costs. The Additional Government Pleader is entitled to separate fees in both the cases.

21.12.2024

To
The Sub-Registrar, Registration
Department, Udumalaipettai
Taluk, Tirupur District.

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P.T.ASHA,J

RS

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