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W.P.(MD)NO.8120 OF 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8120 of 2020 AND

W.M.P.(MD)Nos.7541, 7542 & 7555 of 2020

S.Nirmala

... Petitioner

Vs.

1. The Deputy Registrar of Cooperative Societies,
O/o.the Deputy Registrar of Cooperative Societies,
Musiri Circle, Tiruchirappalli District.
2. The Administrator,
R.1618, Varatharajapuram Primary Agricultural
Cooperative Credit Society,
Thottiyam Taluk, Tiruchirappalli District.
3. The Sub Registrar,
Musiri, Tiruchirappalli District.
4. B.Arayer

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order vide CEP No. 1/2020-2021 dated 07.07.2020 passed by the 1st respondent and the consequential impugned notice vide Na.Ka.No.104/2020 dated



07.07.2020 issued by the 3rd respondent and quash the same and consequently direct the 3rd respondent to release the document vide P58/2020 after completing the registration process.

For Petitioner : Mr.D.Senthil
For R-1 & R-3 : Mr.K.S.Selvaganesan,
Additional Government Pleader.
For R-2 : Mr.M.Sridharan
For R-4 : Mr.S.Balamurugan

* * *

ORDER

Heard both sides.

2. The fourth respondent herein was employed as Cashier in the second respondent Co-operative Society. She is said to have committed misappropriation. Surcharge proceedings were initiated and have since culminated in an award under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. In the meanwhile, the first respondent herein passed the attachment order dated 07.07.2020 attaching the petition-mentioned property. The writ petitioner herein had purchased the same from the fourth respondent on 26.06.2020. The sale deed was presented for registration. The said document was retained as a pending



document. Refusal check slip appears to have been issued on 23.11.2020. The present writ petition came to be filed challenging the primary order dated 07.07.2020 and also the stand of the third respondent declining to register the document.

3. When the matter was taken up for hearing, the learned counsel appearing for the petitioner submitted that he may be permitted to forgo the challenge to the primary order of attachment and he may be given liberty to work out his remedy in the manner known to law before the authorities concerned. Such liberty is granted to the petitioner.

4. Once the scope of the writ petition has now become narrowed, the only question that calls for consideration is whether the third respondent could have declined to register the document by citing the primary order of attachment.

5. The issue is no longer *res integra*. A learned Judge of this Court in the decision reported in **2019 4 CTC 851 (Pegasus Assets Reconstruction Private Ltd., V. The Inspector General of Registration, Government of Tamil Nadu)** held that the sale of the attached property pending the order of attachment is void only as



against the claims enforceable under the order of attachment and not in respect of the other claims. Citing the earlier decisions, the learned Judge held that the sale of the property attached cannot be said to be illegal sale.

6. Respectfully following the said decision, I permit the petitioner to re-present the document. The same will be received by the third respondent, registered and released subject to fulfilment of the other usual formalities. While releasing the document, the third respondent will affix seal indicating that the property had been attached vide order dated 07.07.2020 passed by the first respondent herein. I make it clear that it is open to the petitioner to have the attachment vacated in the meanwhile. This writ petition stands partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

22.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes/ No

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To:

1. The Deputy Registrar of Cooperative Societies,
O/o.the Deputy Registrar of Cooperative Societies,
Musiri Circle, Tiruchirappalli District.
2. The Sub Registrar,
Musiri, Tiruchirappalli District.



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G.R.SWAMINATHAN,J.

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