



CRP(PD)(MD)No.1224 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 22.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.1224 of 2021 and
CMP(MD) No.7015 of 2021

C.Ravichandran

... Petitioner

Vs

1.The Deputy Registrar of Co-operative Societies,
Srivilliputtur,
Virudhunagar District.

2.The Sale Officer,
Office of the Deputy Registrar of Co-Operative Societies,
Srivilliputtur,
Virudhunagar District.

3.The Special Officer,
No. O-506, Mamsapuram Primary
Agricultural Co-Operative Bank Ltd.,
Srivilliputtur Circle,
Virudhunagar District.

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to call for the records of the fair and decreetal order dated 16.04.2021 passed in CMA (CS)No. 17/2011 on the file of Co-Operative Appellate



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Tribunal / Principal District Judge, Virudhunagar at Srivilliputtur and set aside the same by setting aside the orders passed in proceedings, dated 26.05.2008 in Ref.No.NI.MA.No.6/2008-09.

For Petitioner : Mr.S.Ramasundarvijayraj
For Respondents : Mr.A.Baskaran
Additional Government Pleader

ORDER

The petitioner claiming to be a bonafide purchaser of a property in S.No.411/32 in Mamsapuram Village of Srivilliputhur Taluk at Virudhunagar District has preferred an appeal in CMA (CS) No.17 of 2011, before the Co-operative Appellate Tribunal / Principal District Judge, Virudhunagar at Srivilliputhur, as against the public auction notice issued by the respondents on his property in reference No.NI.MA.No.6/2008-09, dated 26.05.2008.

2.The subject land in S.No.411/32 was the property of one Seetha, who served as an Assistant Secretary of Mamsapuram Primary Agricultural Co-Operative Bank Ltd., Srivilliputtur, Virudhunagar and she was held responsible for misappropriation of the above Society's



fund. Therefore, an enquiry under Section 81 of the Tamil Nadu Co-Operative Societies Act, 1983 (hereinafter called Act), continued with an enquiry under Section 87 of the Act was contemplated as against the said Seetha in the year 2005. While proceeding under Section 87 of the Act, the Deputy Registrar has passed an order under Section 167 of the Act, attaching the properties of the delinquent officer, in Na.Ka.No. 5854/2015, dated 27.07.2005. The petitioner is said to have purchased the subject property on 12.08.2005, by a registered document in Doc.No.4362/2005. Since the property of the petitioner was attached by the Deputy Registrar, the petitioner has challenged the auction notice, dated 26.05.2008, by way of a writ petition before this Court in WP(MD) No.5416 of 2008 and the same was dismissed by this Court on 28.09.2010. As against the same, the petitioner has preferred a writ appeal in W.A(MD) No.847 of 2011 and the appeal was also dismissed on 14.09.2011, granting liberty to this petitioner to prefer an appeal before the Appellate Authority under Section 152 of the Act. Accordingly, the petitioner has filed the above appeal in CMA(CS) No.



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17 of 2011 before the Co-operative Tribunal/Principal Sessions Judge, Virudhunagar at Srivilliputhur. The Tribunal, by its order, dated 16.04.2021 dismissed the petitioner's appeal. Challenging the same, the petitioner has filed this Civil Revision Petition.

3.The learned counsel appearing for the petitioner submits that the proceedings under Section 87 of the Act was initiated as against the said Seetha only on 10.12.2007 and the surcharge order was passed on 29.02.2008, whereas, the petitioner has purchased the property on 12.08.2005 itself, by way of a registered document for a valuable consideration and therefore, he is a bonafide purchaser. When the petitioner has already purchased the subject property, even before the surcharge order, dated 29.02.2008, it is not proper on the part of the respondents to brought the property of this petitioner for auction for the liabilities of the delinquent officer, Seetha. According to the learned counsel, at the time of purchase, there is no surcharge proceedings pending as against his vendor, Seetha.



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4.He further submits that the enquiry with regard to the conduct of the petitioner's vendor/Seetha has been commenced only after the purchase of the subject property by the petitioner. The learned counsel by relying upon Section 167 of the Act submits that an order of attachment before judgment under Section 167(1) of the act or conditional attachment under Section 167(2) of the Act could be made only in cases, where there is already a case pending on the file of the Deputy Registrar and without satisfying the said condition precedent, it is not available for the Deputy Registrar to issue any order.

5.The learned Additional Government Pleader appearing for the respondents submits that the subject property in S.No.411/32 in Mamsapuram Village, Srivilliputhur Taluk, Virudhunagar District is the property of one Seetha, who was the then Assistant Secretary of Mamsapuram Primary Agricultural Co-Operative Bank Ltd. The petitioner has purchased the subject property from the said Seetha. She has indulged in misappropriation of the above Society's funds.



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Therefore, an enquiry under Section 81 of the Act was ordered to the affairs of the Society, in the year 2003 and on the outcome of the enquiry report, the proceedings under Section 87 of the Act was also contemplated in the year 2005. According to him, the subject property in S.No.411/32 was attached by the Deputy Registrar under Section 167 of the Act, in Na.Ka.No.5854/5, dated 27.05.2005 and the same was also intimated to the Sub-Registrar Officer, Srivilliputhur and it was entered in the encumbrance on 01.08.2005. The petitioner has purchased the property on 12.08.2005. Therefore, the petitioner cannot be treated as a bonafide purchaser. The proceedings initiated as against the said Seetha/the petitioner's vendor for the misappropriation of Society's funds, has been challenged by her in CMA(CS) No. 13 of 2008, before the Co-operative Tribunal and the same was dismissed on 25.09.2015. As against the same, she has not preferred any appeal and therefore, the order of the Tribunal has become final.



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6.This Court has considered the rival submissions made

and also perused the materials placed on record.

7.The petitioner has challenged the auction notice, dated 26.05.2008, for the property in S.No.411/32 in Mamsapurram Village at Srivilliputhur, Virudhunagar District. The case of the petitioner is that he is the bonafide purchaser of the subject property by way of a registered sale deed, dated 12.08.2005 in Doc.No.4362/2005, for a valuable consideration. The petitioner was said to have purchased the above property from one Seetha, the then Assistant Secretary of Mamsapuram Primary Agricultural Co-Operative Bank Ltd., Srivilliputtur, against whom, an enquiry under Section 87 of the Act was contemplated. Pending enquiry, the Deputy Registrar has passed an order of attachment on the properties of Seetha in Na.Ka.No. 5854/2015, dated 27.07.2005, under Section 167 of the Act. This interim order of attachment, dated 27.07.2005 was also duly intimated to the Sub Registrar, Srivilliputhur and also entered in the encumbrance



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on 01.08.2005. Admittedly, the petitioner has purchased the disputed property from the said Seetha on 12.08.2005. The petitioner ought to have vigilant, while purchasing the property and he ought to have verified the encumbrance, which is very much entered and available on 01.08.2005.

8.In view of the above, this Court is not inclined to entertain this Civil Revision Petition. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.08.2024

Index : Yes / No.

Internet : Yes / No.

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