



CRP(MD)No.130 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.130 of 2021

The Thirunelveli (Separate) 55, Kadampur
Agricultural Co-operative Credit Society Ltd.,
Through its Secretary
Mr.S.Lakshmanan,
Kadampur,
Kovilpatti Taluk,
Thoothukudi.

... Petitioner

Vs

1.The Deputy Registrar of Co-operative Societies,
Vakkil Street,
Kovilpatti.

2.A.Jeyaram

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India, to set aside the order passed by the learned Principal District Court, Thoothukudi in CMA(CS) No.3 of 2012, dated 05.07.2017 and subsequently confirm the order of the first respondent passed in



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Sa.Ni.Ma. 24/2002-03, dated 08.09.2003, under Section 167(2) of the Tamil Nadu Co-operative Societies Act.

For Petitioner : Mr.K.K.Samy
For R1 : Mr.A.Baskaran
Additional Government Pleader
For R2 : Mr.D.Srinivasa Raghavan

ORDER

This Civil Revision Petition is filed as against the order passed by the learned Principal District Judge, Thoothukudi in CMA(CS) No.3 of 2012, dated 05.07.2017 confirming the order of the Deputy Registrar of Co-operative Societies Kovilpatti in Sa.Ni.Ma. 24/2002-03, dated 08.09.2003.

2.The above appeal was filed by the second respondent herein, who is the purchaser of the property in S.No.42/6A-2, Manthithoppu Revenue Village of Kovilpatti Taluk from one Seenivasan, the power of attorney of one Jayanthi. The Society has taken a plea that this property originally belongs to a delinquent



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officer/the Secretary of the Society, by name, Ravindran, who has misappropriated the Society funds, for which, he was placed under suspension. On knowing that the delinquent officer has transferred his right on the subject property to his sister, namely, Jayanthi. The said Jayanthi, in turn, has executed a power of Attorney in favour of one Seenivasan and through the said Seenivasan, the subject property has been transferred to the appellant/ the second respondent herein. The second respondent has filed a suit in O.S.No.307 of 2004 on the file of the District Munsif Court, Kovilpatti and the same was decreed. The petitioner Society has preferred an appeal in A.S.No.10 of 2007, before the Sub Court, Kovilpatti and the same was dismissed. Challenging the same, the petitioner Society has preferred Second appeal in SA(MD) No.149 of 2008 and the same was allowed and the second respondent herein was permitted to challenge the proceedings by way of a separate appeal before the Tribunal. Accordingly, the above CMA(CS) No.3 of 2012 has been filed by the second respondent herein as against the



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petitioner Society and the Deputy Registrar of Co-operative Societies, Thoothukudi. The Tribunal has observed that as per Rule 135(1) of the Tamil Nadu C-operative Societies Act, any claim is preferred or any objection is made to the attachment of any property attached under the Rules, on the ground that such property is not liable to such attachment and the sale officer shall investigate the claim/objection and dispose of the same on merits. Therefore, the appellant, who is claiming to be the subsequent bonafide purchaser must be provided with an opportunity in the attachment proceedings and therefore, the matter was remitted back to the Deputy Registrar of Co-operative Societies, for considering the issue afresh after affording opportunity to the appellant/the second respondent herein. As against the same, the present revision petition is filed.

3.The learned counsel appearing for the petitioner Society submits that the second respondent is a third party to the proceedings



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initiated under Section 87 of the Tamil Nadu Co-operative Societies Act as against one Ravindran/the delinquent officer of the petitioner Society and therefore, there is no need to afford any opportunity to the second respondent herein. Therefore, the order of the Tribunal is liable to be set aside.

4.The learned counsel appearing for the second respondent submits that the second respondent has purchased the subject property on 20.02.2004 vide Document No.831 of 2004. However, no opportunity has been provided to him in the surcharge proceedings and the attachment proceedings initiated as against one Ravindran, who is said to be the brother of one Jayanthi, from whom the second respondent has purchased the property, through her power of Attorney.

5.Heard both sides and perused the materials placed on record.



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6. Admittedly, the second respondent herein has purchased the subject property on 20.02.2004 from one Seenivasan, the power of Attorney of one Jayanthi. The said Jayanthi is the sister of one Ravindran/the delinquent officer of the petitioner Society. The petitioner Society claims that the second respondent is a third party to the attachment proceedings and therefore, there is no necessity for providing opportunity to him in the attachment proceedings, which was initiated as against the said Ravindran. On the other hand, the second respondent herein claims that he is the bonafide purchaser of the subject property. However, no opportunity has been provided to him in the surcharge and attachment proceedings. By referring to Rule 135(1) of the Tamil Nadu C-operative Societies Act, the Tribunal has remanded the matter to the Deputy Registrar of Co-operative Societies, Thoothukudi, for providing an opportunity to the second respondent herein. This Court finds no infirmity in the order passed by the Tribunal in CMA(CS) No.3 of 2012, dated 05.07.2017.



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7. Accordingly, this Civil Revision Petition is dismissed with liberty to the petitioner Society to work out the remedy in the proceedings, which is pending before the Deputy Registrar of Co-operative Societies, Thoothukudi. Considering the fact that this issue is pending from the year 2002, the Deputy Registrar of Co-operative Societies, Thoothukudi/the first respondent shall conduct the enquiry and conclude the same, after providing sufficient opportunity to the petitioner as well as to the second respondent and other necessary parties, if any, within a period of six months from the date of receipt of a copy of this order. No costs.

07.08.2024

NCC : Yes/No
Index : Yes / No.
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- To
- 1.The Deputy Registrar of Co-operative Societies,
Nagercoil,
Kanyakumari District.
 - 2.The Presiding Officer,
Co-operative Appellate Tribunal,
(The Principal District Judge),
Kanyakumari at Nagercoil.



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B.PUGALENDHI, J.

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Order made in
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