



W.P(MD)No.20360 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.20360 of 2024

and

W.M.P.(MD)Nos.17266 & 17267 of 2024

Kalpana

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Palani Circle, Palani,
Dindigul District.

2.The Sale Officer / Sub Registrar of Co-operative Societies,
DD-524, Maniyakarapatti Primary Agricultural
Co-operative Credit Society,
Maniyakaranpatti, Vedasanthur Taluk,
Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the impugned Form No.8 notice for auction sale of attached immovable properties issued by the 1st respondent dated 18.07.2024 and quash the same as illegal.

For Petitioner : Mr.D.Venkatesh

For Respondents : Mr.A.Kannan,

Additional Government Pleader



W.P(MD)No.20360 of 2024

WEB COPY

ORDER

By consent of both parties, this Writ Petition is taken up for final disposal at the stage of admission itself.

2.Mr.A.Kannan, learned Additional Government Pleader takes notice for the respondents.

3.It is the case of the petitioner that her husband was the Secretary under the 2nd respondent Society. On the alleged misappropriation of funds by him, surcharge proceedings have been initiated. Pursuant to the surcharge proceedings, the property of the petitioner was brought under auction. Therefore, questioning the same, the petitioner filed W.P.(MD)No.23382 of 2023, wherein this Court, by an order dated 25.09.2023, directed the petitioner to give an objection by way of a fresh representation to the 2nd respondent and directed the 2nd respondent to take a decision in accordance with Rule 135 of Tamil Nadu Co-operative Societies Rules, 1988 (hereinafter referred to as 'the Rules'). Pursuant to the same, the petitioner made objection on 26.09.2023 before the 2nd respondent. However, the same has been rejected by the 2nd respondent vide order dated 05.03.2024. After rejection, now, the auction notice



W.P(MD)No.20360 of 2024

dated 18.07.2024 has been issued by the 1st respondent, which is under challenge in this Writ Petition.

4.The learned counsel appearing for the petitioner would submit that the impugned auction notice has been challenged mainly on the ground that Rule 135(3) of the Rules provides six months time for the party, against whom an order has been passed, to file a suit to establish the right. Therefore, before expiry of six months period, no further action to be made.

5.It is to be relevant to extract Rule 135(3) of the Rules for easy reference:-

“135.Investigation of claims and objections to attachment of property-

(3)Where a claim or an objection is preferred, the party, against whom an order is made by the sale officer, may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order made by the sale officer shall be conclusive.”

6.A perusal of the same makes it very clear that whether any claim or objection is preferred, the party, against whom an order is passed, may institute



W.P(MD)No.20360 of 2024

a suit within a period of six months to establish the right, which he claims to the property in dispute and the order made by the sale officer will always subject to the result of the suit. That means, even if auction is conducted, in the event the petitioner succeeds in the suit, the decree and judgment of the civil Court will bind on the sale officer or the party, who purchased the property in dispute.

7.In such view of the matter, it is for the petitioner to establish her right by filing a suit in the civil Court. Merely that provision is provided for establishing the right, it does not mean that the property cannot be brought for auction for ever. In view of the above, I do not find any merits in this Writ Petition. Accordingly, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.08.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

Yuva



W.P(MD)No.20360 of 2024

To

- 1.The Deputy Registrar of Co-operative Societies,
Palani Circle, Palani,
Dindigul District.
- 2.The Sale Officer / Sub Registrar of Co-operative Societies,
DD-524, Maniyakarapatti Primary Agricultural
Co-operative Credit Society,
Maniyakaranpatti, Vedasanthur Taluk,
Dindigul District.



WEB COPY



W.P(MD)No.20360 of 2024

N.SATHISH KUMAR, J

Yuva

W.P(MD)No.20360 of 2024

28.08.2024