



W.P.(MD) Nos.13725 and 14171 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : .19.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) Nos.13725 and 14171 of 2016

and

W.M.P.(MD) Nos.10229, 10524 and 10525 of 2016

W.P.(MD) No.13725 of 2016:

P.Sivakumar

.. Petitioner

Vs.

The Deputy Registrar of Cooperative Societies,
Kulithalai,
Karur District.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records on the file of the respondent in connection with the impugned demand notice issued in Na.Ka.38/2014 Sa.Pa. dated 02.09.2014 (29.04.2015), but served on 11.01.2016 and the consequential impugned auction notice issued by him in CEP No.2/2014-15 dated 05.07.2016 and quash both as illegal and ultra vires.



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For Petitioner : Mr.G.Thalaimutharasu

For Respondent : Mr.J.K.Jeyaselan
Government Advocate

W.P.(MD) No.14171 of 2016:

P.Sasikumar .. Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Kulithalai,
Karur District.

2.P.Sivakumar .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorari, to call for the records on the file of the respondent in connection with the impugned auction notice issued by him in CEP No.2/2014-15 dated 05.07.2016 and quash the same as illegal and ultra vires.

For Petitioner : Ms.Chamundi Bose

For Respondent-1 : Mr.J.K.Jeyaselan
Government Advocate



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COMMON ORDER

1.1. W.P.(MD) No.13725 of 2016 has been filed challenging the impugned demand notice and the consequential attachment of the property belonging to the petitioner in W.P.(MD) No.13725 of 2016.

1.2. The said writ petition has been filed by the Ex-Secretary of the Society against whom surcharge proceedings came to be issued on the even date holding that the petitioner is liable for a loss of Rs.19,35,196.50 caused to the Society.

2. W.P.(MD) No.14171 of 2016 has been filed by the brother of the petitioner in W.P.(MD) No.13725 of 2016 by contending that the order of attachment relates to a family property in which he also has a share.

3. The surcharge proceedings issued against the petitioner in W.P. (MD) No.13725 of 2016 was subject matter of challenge by the petitioner in C.M.A.(CS) No.1 of 2015 on the file of the District Court, Karur and by order dated 07.11.2020, the civil miscellaneous appeal was disposed



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of by holding that the petitioner was liable only for a sum of Rs.14,45,015/-. It is the case of the petitioner that as against the same, he has also preferred a civil revision petition before this Court.

4. The demand notice has been made for a sum of Rs.35,01,265.50. On the very same day, surcharge proceedings has been initiated. However, under the surcharge proceedings, the petitioner was found to be liable only for a sum of Rs.19,35,196.50.

5. A detailed counter affidavit has been filed by the respondent in W.P.(MD) No.13725 of 2016, but there has been no averment as to why the demand notice had different amount than that of the surcharge proceedings. Since both the surcharge proceedings and the demand notice were made on the very same day, I am of the view that the demand could not be made more than what has been held to be liable to be paid by the petitioner under the surcharge proceedings. Further, the liability under the surcharge proceedings has also been reduced in an appeal filed by the petitioner for holding him liable for a sum of Rs.14,45,015/-.



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6. For the aforesaid reasons, the demand notice and the consequential attachment proceedings in W.P.(MD) No.13725 of 2016 shall stand set aside and accordingly, W.P.(MD) No.13725 of 2016 is allowed

7. In view of the order passed in W.P.(MD) 13725 of 2016, no further orders are required to be made in W.P.(MD) No.14171 of 2016 and the same is accordingly, closed.

8. In the result, (i) W.P.(MD) No.13725 of 2016 is allowed and (ii) W.P.(MD) No.14171 of 2016 is closed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

19.11.2024

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

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K.KUMARESH BABU, J.

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To

The Deputy Registrar of Cooperative Societies,
Kulithalai,
Karur District.

W.P.(MD) Nos.13725 and
14171 of 2016

Dated: 19.11.2024