



W.P.(MD).No.24349 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 13.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.24349 of 2024

and

W.M.P.(MD).Nos.20663 & 23146 of 2024

N.Rajagarani

... Petitioner

-vs-

1.The Registrar of Cooperative Societies,
No.170, N V Natarajan Maaligai,
Poonamallee High Road,
Kilpauk, Chennai-600 010.

2. The Registrar of Cooperatives (Housing),
TamilNadu Cooperative Housing Federation Complex,
48, II Floor, Ritherdon Road,
Veperi, Chennai-07.

3. The Joint Registrar of Cooperative Societies,
Thanjavur Region,
Medical College Road,
Thanjavur-613 007.

4. The Deputy Registrar of Cooperative Societies,
II Floor, Jayaraj Complex,
Chinnappa Street,
Pattukottai-614 601.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records in E.P.No.30/2024-2025 S.C.No.1214/2019/SF dated 17.08.2023 REC.No.2472/2024/SAPA dated 23.09.2024 issued by the fourth respondent and quash the same.

For Petitioner : Mr.M.R.Pandurangan
For Respondents : Mr.D.Sasikumar
Additional Government Pleader

ORDER

The instant writ petition has been filed by the wife of a retired Cooperative Sub-Registrar, challenging the attachment notice issued under Rule 126(2)(d) of TamilNadu Cooperative Societies Rules for Attachment of Immovable Property, pursuant to surcharge order dated 17.08.2023.

2. As per the impugned attachment notice, the petitioner has to pay a sum of Rs.2,91,500/-. According to the learned Counsel appearing for the writ petitioner, the surcharge order has already been put to challenge before the District Court, Thanjavur in CMA.No.35 of 2023 and the same is pending for adjudication. He further submits that the surcharge proceedings were also challenged in W.P.(MD).No.16351 2019. This Court by an order dated



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04.01.2023, disposed of the writ petition with an observation that the petitioner is entitled to get the terminal benefits. However, the authorities were granted liberty to retain a sum of Rs.58,300/-, representing the share of the writ petitioner arising under surcharge proceedings. According to the learned Counsel appearing for the writ petitioner, the terminal benefits cannot be retained citing the non-payment of Rs.2,91,500/- especially when this Court has directed to retain only a sum of Rs.58,300/- .

3. Per contra, the learned Additional Government Pleader appearing for the respondent had contended that challenging the order of the writ court in W.P.(MD).No.16351 of 2019, already writ appeal has been filed in W.A(MD).No.1541 of 2024 and the same is pending. In such circumstances, the petitioner cannot take advantage of the order of the writ court. The present notice of attachment property having been issued for non payment of the amount declared in the surcharge proceedings. The petitioner is liable to pay the said amount. He further contended that so far the surcharge order has not been set aside by the District Court. In such circumstances, unless the entire payment is made by the writ petitioner along with interest, the question of disbursement of terminal benefits would not arise.



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4. The learned Additional Government Pleader has also received written instructions from the Deputy Registrar of Cooperative Societies, Pattukottai to the effect that a sum of Rs.30,50,856/- is due to the writ petitioner by way of terminal benefits.

5. I have carefully considered the submissions made on either side and perused the materials available on record.

6. Even assuming that the petitioner is liable to pay a sum of Rs.2,91,500/- which is impugned in the writ petition, a sum of Rs.30,50,856/- cannot be retained by the respondents herein. Pursuant to the interim orders of the Court, the petitioner has also deposit a sum of Rs.60,000/-

7. In such circumstances, this Court directs the respondents to retain a sum of Rs.5,00,000/- towards the surcharge proceedings and disburse the balance amount to the writ petitioner within a period of 12 weeks from the date of receipt of a copy of this order. The said Rs.5,00,000/- may be released depending upon the orders, to be passed by the District Court, Thanjavur in CMA.No.35 of 2023.



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8. with the above said observations, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2024

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

1. The Registrar of Cooperative Societies,
No.170, N V Natarajan Maaligai,
Poonamallee High Road,
Kilpauk, Chennai-600 010.

2. The Deputy Registrar of Cooperative Societies,
Nagercoil,
Kanyakumari District.

3. The Cooperative Sub Registrar,
Nagercoil,
Kanyakumari District.

4. The Administrator,
KN 77 Aralvaimozhy,
Cooperative Credit Society Ltd.,
Aralvaimozhy,
Kanyakumari District.



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R.VIJAYAKUMAR,J.

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