

15. 02.04.2025
Court No.05.

(Pritam)

WPA 5837 of 2025

Swapan Adhikari
-Vs.-
The State of West Bengal & Ors.

Mr. A. Mondal,
Ms. Jeenia Rudra,
Ms. Shipra Naskar.

...for the petitioner.

Mr. Ranjit Rajat.

...for the State respondents.

Mr. Ankit Sureka,
Mr. Biplab Das.

....for respondent nos.2 & 3.

1. Affidavit-of-service filed in court today be taken on record.
2. Challenging the order of conditional attachment dated June 14, 2023 passed by the Deputy Registrar, Co-operative Societies, Cooperation Directorate, Hooghly Range, Government of West Bengal, the instant writ petition has been filed. To understand the challenge made in the writ petition, it is necessary to note down the facts relating to this case.
3. The petitioner claims to be a senior citizen and also claims to be the owner in respect of the properties which form part of the subject-matter of the conditional attachment order dated June 14, 2023. Mr. Mondal, learned advocate for the petitioner by placing before this Court copies of the four several

registered Sale Deeds would submit that the petitioner had acquired interest in the said properties along with his brother, namely, Bijoy Krishna Adhikari. According to Mr. Mondal, the petitioner cannot be made responsible for the acts and deeds of his son, namely, Kaushik Adhikari, especially when he has no connection and/or dealings with his son.

4. By referring to the order dated June 14, 2023, it is submitted that the Co-operative Societies, Cooperation Directorate, Hooghly Range, proceeded on the statements made by the Board of Directors that the properties detailed in the Schedule of such order are of the accused and the dependent family members, without there being any basis therefor. The petitioner was, however, unaware with regard to the factum of passing of the said order until July 24, 2024 when the petitioner's attempt to transfer the properties forming part of the subject-matter of the conditional order of attachment was stalled by reasons of the Office of the concerned Sub Registrar, intimating that the aforesaid properties form part of the conditional order of attachment dated June 14, 2023.
5. Mr. Mondal, would further submit that this prompted the petitioner to make enquiries whereupon the petitioner had been able to obtain the copy of the order dated June 14, 2023.

6. He would also seek leave to rely on and refer to the Record of Rights concerning the aforesaid properties to demonstrate that these properties are exclusively possessed and owned by the petitioner and his brother, the same has nothing to do with his son, namely, Kaushik Adhikari. The record of rights are, however, yet to be produced.
7. Mr. Sureka, learned advocate for the respondent nos.2 & 3 on the other hand would submit that the order dated June 14, 2023 has been passed long back. A belated challenge has been thrown as and by way of an after thought. The nexus between the petitioner and Kaushik Ahikari cannot be ruled out at this stage. Independent of the above, he would submit that the West Bengal Co-operative Societies Act, 2006 (hereinafter referred to as the “said Act”), provides for a remedy in the form of the revision. The petitioner without availing such remedy has approached this Court. On the ground of alternative remedy, the instant writ petition should be dismissed.
8. Mr. Rajat, learned advocate enter appearance for the State respondents.
9. Having heard the learned advocates appearing for the respective parties and having considered the materials on record, it appears that the petitioner seeks to challenge the order of conditional

attachment dated June 14, 2023, whereby the properties belonging to the petitioner had been attached. Although, from a perusal of the aforesaid order, it would transpire that the attachment orders have been passed on the premise that the properties belonged to the accused and the dependent family members, however, the petitioner would claim that the properties are possessed by the petitioner along with his brother Bijoy Krishna Adhikari and that his son Kaushik Adhikari has no interest in such properties. To substantiate the aforesaid, four several register have been disclosed. The petitioner also seeks leave to refer to the record of rights. The above order has been passed without notice to the petitioner.

10. There is another aspect of the matter. There is no proper explanation for the delay. This apart although, the petitioner claims that his son Kaushik Adhikari is not the owner of the property, Kaushik Adhikari is not a party to this petition. There is also no affidavit filed by Kaushik Adhikari asserting that he has no interest in the properties forming subject matter of attachment. In view thereof, it shall be prudent at this stage to direct the petitioner to approach the Revising Authority, being the State Government under Section 148 of the said Act.

11. Having regard thereto, in the event the petitioner approaches the State Government by filing an application under the provisions of Section 148 of the said Act within a period of four weeks from date, the State Government shall having regard to the observations made hereinabove decide upon the petitioner's rights, *inter alia*, including whether the conditional order of attachment can be continued any further against the petitioner's properties described in the Schedule to the order dated June 14, 2023 after giving opportunity of hearing to all concerned.
12. It is expected that the State shall decide on merits of the application and dispose of the same under Section 148 of the said Act by passing a reasoned order within a period of eight weeks from the date of filing of such application.
13. With the aforesaid observations, WPA 5837 of 2025 stands disposed of.
14. There shall be no order as to costs.

(Raja Basu Chowdhury, J.)