IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2025

CORAM

THE HONOURABLE MR. JUSTICE **S.M.SUBRAMANIAM**
AND
THE HONOURABLE MR. JUSTICE **MOHAMMED SHAFFIQ**

W.A. No.1027 of 2025
and
C.M.P. No.8345 of 2025

The Dharmapuri Co-operative Town Bank Ltd.,
63A, Duraisamy Naidu Street,
Dharmapuri District. ... Appellant

Vs.

1.A.Durairaj

2.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai – 600 028.

3.The Principal Commissioner of Income Tax,
Office of the Commissioner of Income Tax,
No.3, Gandhi Road, Salem District.

4.Tax Recovery Officer – I,
Income Tax Department,
Room No.207, 2nd Floor, Annex Building,
63, Race Course Road,
Coimbatore – 641 018.

5.The District Registrar,
Dharmapuri.

6.The Sub Registrar,
Dharmapuri Joint II,
Dharmapuri.

7.The Deputy Registrar of
Co-operative Societies,
Dharmapuri. ... Respondents

Writ Appeal filed under Clause 15 of Letters Patent against the order dated 06.12.2024 made in W.P. No.36093 of 2024.

For Appellant	:	Mr.P.S.Sivashanmugasundaram
For Respondents	:	Mr.V.P.Raman for Mr.Sharath Chandran for R1 Mr.P.Harish, Government Advocate for R2, R5 and R6 Dr.B.Ramaswamy, Senior Standing Counsel for R3 & R4 Ms.M.Geetha Thamaraiselvan, Special Government Pleader (Co-op.) for R7

JUDGMENT

(Judgment of the Court was delivered by *S.M.SUBRAMANIAM, J.*)

Writ order dated 06.12.2024 passed in W.P. No.36093 of 2024 is sought to be assailed in the present intra-court appeal.

2. Seventh respondent in the writ petition viz., Dharmapuri Co-operative Town Bank Limited registered under the provisions of the Tamil Nadu

Cooperative Societies Act, 1983 (hereinafter referred to as the Act) is the appellant in the present writ appeal.

3. Learned counsel for the appellant would mainly contend that the appellant was not heard by the writ Court. Based on the surcharge order issued under Section 87 of the Act, an appeal was preferred under Section 152 of the Act before the Principal District Judge/Co-operative Tribunal, Dharmapuri and the surcharge order came to be affirmed by the Tribunal. Said order passed under Section 152 of the Act is to be construed as a Civil Court decree and executable. Writ petition filed challenging the order of the Tribunal had been withdrawn and therefore the decree under Section 152 of the Act became final. Thus, appellant is entitled to file an execution petition to realise the surcharge amount pursuant to the order passed under Section 87 of the Act.

4. Learned counsel appearing on behalf of the first respondent would submit that subsequent to the surcharge order passed under Section 87 of the Act, Income Tax Department attached the subject property and sold the same. Therefore, writ Court is right in issuing a direction to delete the entries regarding attachment made by the appellant co-operative Bank.

5. Judgment and decree passed under the provisions of Co-operative Societies Act is to be treated as a civil court decree for all purposes. In the event of filing any execution petition, any person having claim over the subject property may submit an application to put forth his/her claim. However, in the present case, Income Tax Department had already sold subject property and that being the factum, these issues are to be adjudicated on merits and in accordance with law. Since the writ Court has decided the issues at the admission stage without affording opportunity to appellant cooperative bank to put forth their case, this Court is inclined to remit the matter back to the writ Court for fresh adjudication of issues after affording opportunity to all the parties.

6. In view of the above, writ order dated 06.12.2024 made in W.P. No.36093 of 2024 is set aside and the matter is remanded back to the writ Court for fresh adjudication. Consequently, writ appeal stands allowed. Connected miscellaneous petition stands closed. There shall be no order as to costs.

[S.M.S, J.] [M.S.Q, J.]
29.10.2025

Index:Yes/No
Neutral Citation:Yes/No

mmi

To

1.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai – 600 028.

2.The Principal Commissioner of Income Tax,
Office of the Commissioner of Income Tax,
No.3, Gandhi Road, Salem District.

3.The Tax Recovery Officer – I,
Income Tax Department,
Room No.207, 2nd Floor, Annex Building,
63, Race Course Road,
Coimbatore – 641 018.

4.The District Registrar,
Dharmapuri.

5.The Sub Registrar,
Dharmapuri Joint II,
Dharmapuri.

6.The Deputy Registrar of
Co-operative Societies,
Dharmapuri.

S.M.SUBRAMANIAM, J.
AND
MOHAMMED SHAFFIQ, J.

mmi

W.A. No.1027 of 2025

29.10.2025