



W.P.No.13774 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.09.2025

CORAM:

THE HONOURABLE MR. JUSTICE **V. LAKSHMINARAYANAN**

W.P.No.13774 of 2025 &
WMP.No.15473 of 2025

V.Vijayaragavan

... Petitioner

Vs.

1.The Deputy Registrar of Co-operative Societies,
Tiruvannamalai Circle.

2.The Joint Sub-Registrar-II,
Registration Department,
Tiruvannamalai (Dt).

3.The Sub-Registrar,
Registration Department,
Kalasapakkam, Tiruvannamalai (Dt).

4.The Administrator,
H.H.630, Kalasapakkam Primary Agricultural
Cooperative Credit Society,
Kalasapakkam, Tiruvannamalai (Dt).

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the conditional attachment order passed by the 1st respondent in C.E.P.No.08/2024-2025 dated 04.06.2024 under Section 167 Tamil Nadu Co-operative Societies Act, 1983 in respect of petitioner property in survey No.6/3-034 acre and survey No.8/1-0.13.50 acre quash the same and direct the respondents to raise the order of attachment made in the above said property.

For Petitioner :Mr.L.P.Shanmugasundaram

For Respondents :Dr.S.Suriya,
Additional Government Pleader



W.P.No.13774 of 2025

ORDER

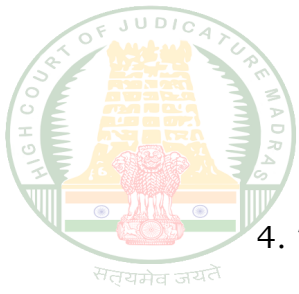
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I heard Mr.L.P.Shanmugasundaram for the petitioner and Dr.S.Surya for the respondents.

2. The petitioner seeks for the following reliefs:

“calling for the records of the conditional attachment order passed by the 1st respondent in C.E.P.No.08/2024-2025 dated 04.06.2024 under Section 167 Tamil Nadu Co-operative Societies Act, 1983 in respect of petitioner property in survey No.6/3-034 acre and survey No.8/1-0.13.50 acre quash the same and direct the respondents to raise the order of attachment made in the above said property.”

3. The petitioner's grandmother, one Kasthuriammal had purchased the property situated at S.No.6/3 and 8/1 of Palankovil Village, Kalasapakkam Taluk, Thiruvannamalai District from two persons, namely, Ragunatha Mudaliar and Abayanjitham. This sale from the aforesaid persons in favour of Kasthuriammal was on 14.06.1966. It is evidenced by a registered sale deed in document No.2305 of 1966. Kasthuriammal, out of natural love and affection that she has for the petitioner, who is her grandson, settled the property in his name by way of a registered settlement deed dated 27.05.2020. This document too, is a registered one in document No.695 of 2020.



W.P.No.13774 of 2025

4. The cause of action for the writ petition is that when the petitioner applied for a loan, he was informed by the third respondent that the fourth respondent has attached the property exercising his powers under Section 167 of the Tamil Nadu Cooperative Societies Act.

5. The petitioner was surprised to know of this attachment, as he has nothing to do with the said respondent. The person against whom the order is directed is his paternal uncle, Mr.Krishnamoorthy, a former Secretary of the fourth respondent, Society. Hence, the present writ petition, challenging the attachment.

6. This court entertained the writ petition and directed the respondents to file a counter.

7. The respondents have filed a counter stating that the petitioner's paternal uncle, Mr.Krishnamoorthy had been in-charge of the fourth respondent Society from 08.12.2021 till 05.12.2023. During the said period, Mr.Krishnamoorthy is said to have misappropriated a sum of Rs.1,57,31,357/- from the fourth respondent Society. Consequent to the said malversation, surcharge proceedings were initiated against him and an award was passed on 20.01.2025. It is also alleged that a criminal proceeding has been initiated against Mr.Krishnamoorthy and an FIR has been lodged in Crime No.1 of 2025 on the file of the Commercial Crime



W.P.No.13774 of 2025

Investigation Wing, Thiruvannamalai. It is alleged that the fourth respondent had initiated an arbitration proceeding against Mr.Krishnamoorthy and in order to prevent the alienation of the property, an application under Section 167 was moved before the first respondent, who passed the impugned order.

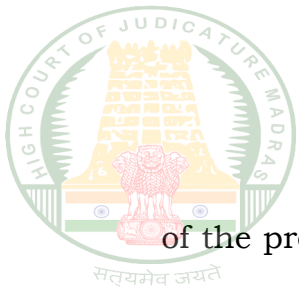
8. It is a plea of Dr.Surya that the property standing in the name of the petitioner had been purchased from and out of the funds that had been malversed by Mr.Krishnamoorthy. She states that in terms of Rule 135 of the Tamil Nadu Cooperative Societies Rules of 1988, the writ petitioner will have to move a claim petition before the Sales Officer, and this Court should not entertain a writ petition.

9. Rebutting these arguments, Mr.L.P.Shanmugasundaram brings to the notice of this court the following two judgments, namely:

(i) The Management R.A.18, Thiruvengadapuram Primary Agricultural Cooperative Credit Society v. S.Rathinam and another in WA(MD).No.1511 of 2018 dated 11.12.2018; and

(ii) M.Chitra v. The Deputy Registrar of Cooperative Societies, Dharmapuri Circle and another in W.P.No.4671 of 2023 dated 20.07.2023.

10. On the basis of these judgments, he pleads that Section 167 proceedings cannot be initiated against the petitioner as he is a lawful owner



W.P.No.13774 of 2025

of the property and further, Rule 135 will apply only at the time of notifying the property for sale and not during the earlier point of time.

11. I have carefully considered the submissions of both sides and have gone through the records.

12. A perusal of the aforesaid two judgments cited by Mr.L.P.Shanmugasundaram shows that unless and until Rule 135 covers a situation of attachment executed pursuant to a proceeding under Section 167, the petitioner does not have an alternate remedy. As rightly pointed by Mr.L.P.Shanmugasundaram, a reading of Rule 135 shows that a claim can be made when the property is notified for sale or attached post a decree.

13. The order impugned in the present writ petition shows that the attachment has been made before the judgment, as is clear from the words “to satisfy a **decree to be passed** against him”. The word 'him' in the impugned order refers to Mr.Krishnamoorthy, the former secretary of the Society.

14. Apart from that, even on merits, purchase has been made by the grandmother of the writ petitioner in the year 1966. It was made by way of a registered document. She had transferred the said property by way of a registered settlement deed in favour of the writ petitioner, her grandson. The



W.P.No.13774 of 2025

alienation is on the year 2020. At that time, Mr.Krishnamoorthy was not even on the roll of the fourth respondent. As is clear from paragraph 5.1 of the counter affidavit, Mr.Krishnamoorthy joined the fourth respondent Society only on 08.12.2021, and had been relieved from the said post on 05.12.2023. These dates show that both the purchase as well as the subsequent alienation in favour of the writ petitioner took place at least four decades and one year prior respectively, prior to Mr.Krishnamoorthy joining the fourth respondent, Society.

15. An owner of the property is entitled to alienate the property in favour of any person. Kasthuriammal has decided to alienate the property in favour of her grandson. On the day on which Kasthuriammal had purchased the property, Mr.Krishnamoorthy obviously was not in service of the fourth respondent Society. That being the position, factually as well as legally, I have no other option than to quash the impugned proceedings.

16. The writ petition is allowed by directing the third respondent, the Sub Registrar to record this order and remove the endorsement of attachment made in the encumbrance certificate. No costs. Consequently, the connected miscellaneous petition is closed.

10.09.2025

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W.P.No.13774 of 2025

Index:Yes/No

Speaking/Non speaking order

Neutral Citation : Yes/No

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Tiruvannamalai Circle.
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W.P.No.13774 of 2025

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