



WP No. 16169/2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-07-2025

WEB COPY

CORAM

THE HONOURABLE MRS.JUSTICE N. MALA

WP No.16169/2023 & WMP.Nos.15558 & 15559/2023

A.Chitrarasu @ SIRRARASU

Petitioner(s)

Vs

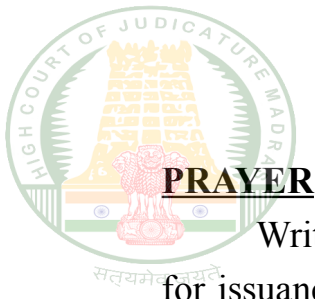
1.The Registrar of Cooperative Societies
170, Periyar EVR High Road
Kilpauk, Chennai 600 010.

2.The Joint Registrar of Cooperative Societies
O/o.Joint Registrar of Cooperative Societies
District Collector's Office Campus
Dharmapuri 636 705.

3.The Deputy Registrar of Cooperative Societies
O/o.Deputy Registrar of Cooperative Societies
District Collector's Office Campus
Dharmapuri 636 705.

4.The Sub Registrar, O/o.Sub Registrar
Department of Registration, Harur, Harur Taluk
Dharmapuri District.

Respondent(s)



PRAYER

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the records of the 3rd respondent in Na.Ka.No.8798/2022/VI.A dated 01.09.2022 [not communicated] i.e, the conditional attachment order, by erroneously mentioning that the petitioner as the President of K.K.168, Naripalli Primary Agricultural Cooperative Credit Society Limited, and quash the same and consequently direct the 4th respondent to remove the encumbrances in respect of the properties found mentioned in the 3rd respondent's conditional attachment order dated 01.09.2022 on its file.

For Petitioner Mr.S.Sathiaseelan
For Respondent(s): Mrs.E.Ranganayaki, GA for RR1 to 3
 Mrs.A.Bakkialakshmi, GA for R4

ORDER

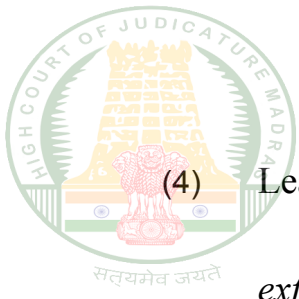
- (1) The above writ petition is filed by the petitioner for a writ of certiorarified mandamus, to quash the conditional attachment order dated 01.09.2022, of the 3rd respondent and consequently, to direct the 4th respondent to remove the encumbrances in respect of the properties.
- (2) The petitioner's wife was elected as the President of KK168 Naripalli Primary Cooperative Agricultural Society, Harur Taluk, Dharmapuri District. While so, an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 [hereinafter referred to as 'the Act'] was ordered for the loss caused to the Society. An Enquiry Officer was



WEB COPY

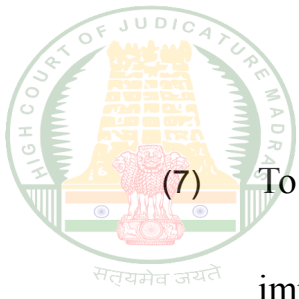
appointed, an enquiry was conducted and the Enquiry Officer in her Report, dated 09.03.2022, found that grave financial irregularities to the tune of Rs.17,39,25,203/- were committed in the Society. Thereafter, the Society submitted an application to the 1st respondent for issuance of an order of interim attachment of immovable properties belonging to the petitioner under Section 167 of the Act. Based on the application of the Society, the 1st respondent passed the impugned order on 01.09.2022, attaching the petitioner's property. Aggrieved by the impugned attachment order, the petitioner filed the above writ petition.

- (3) The respondents filed a detailed counter affidavit stating *inter alia* that the impugned order was passed pursuant to an enquiry under Section 81 of the Act whereunder it was found that grave irregularities leading to severe financial loss to the tune of Rs.17,39,25,203/- was committed in the Society. The respondents stated that if the petitioner's properties were not attached, the recovery of the said amount would be impossible. The respondents hence prayed for dismissal of the writ petition. The petitioner filed a reply to the counter affidavit.



WEB COPY

- (4) Learned counsel for the petitioner submitted that the impugned order was *exfacie* illegal since the provisions of Section 167 of the Cooperative Societies Act, could be invoked only in cases where main case was pending under the various provisions stated therein. The learned counsel submitted that in the absence of any proceedings under the aforesaid sections, the impugned order of attachment before judgment was unsustainable and invalid. Learned counsel for the petitioner therefore submitted that the impugned order was passed without jurisdiction and the same was liable to be quashed.
- (5) The learned counsel appearing for the respondents reiterated the submissions made in the counter affidavit. The learned counsel for the respondents further submitted that if the petitioner's properties were not attached,, the petitioner would encumber the properties making it impossible for the Society to recover its losses. The learned counsel therefore submitted that the writ petition deserves to be dismissed.
- (6) I have heard the submissions made on either side and also perused the materials placed on record.



WEB COPY

(7) To appreciate and understand the petitioner's contention that the impugned order violates Section 67 of the Tamil Nadu Cooperative Societies Act, 1983, and as such, illegal and unsustainable, it will be necessary to refer to Section 167 of the Act.

(8) Section 167 of the Tamil Nadu Cooperative Societies Act, 1983, reads as follows:-

"167. Furnishing of security and attachment of property.

(1) Where the Registrar is satisfied on the application of a registered society in respect of a reference made to him under sub-section (1) of section 90 or on the application of a Liquidator appointed under section 138 in respect of the proceedings of such Liquidator for determining the contribution to be made by a person to the assets of the society under clause (b) of sub-section (2) of section 139 or on the application of the board or Liquidator or any creditor to the society or otherwise in respect of any inquiry ordered into the conduct of any person under section 87 that any party to the reference or the person, as the case may be, is about to dispose of or remove from the local limits of the jurisdiction of the Registrar, the whole or any part of his property with intent to defeat or delay the



WEB COPY

WP No. 16169/2023



execution of any decision that may be passed on the reference or of any order that may be passed against him by the Liquidator or the Registrar, as the case may be, the Registrar may, by order, direct the party or the person, to furnish security in such sum and within such time as may be specified in such order and to produce and place at the disposal of the Registrar when required, the said property or such part thereof as may be sufficient for the execution of any decision or order aforesaid.

(2) The Registrar may also in the order made under sub-section (1), or by a separate order, direct the conditional attachment of the said property or such part thereof and such attachment shall have the same effect as if it had been made by a competent Civil Court:

Provided *that no order for conditional attachment shall be made under this sub-section unless the Registrar, for the reasons to be recorded in writing, is satisfied that the whole or any part of the property will be disposed of or removed with intent to defeat or delay the execution of any decision or order of the Liquidator or the Registrar, as the case may be.*

- (9) A plain reading of the aforesaid provision reveals that an order of attachment before judgment could be passed only in cases where



WEB COPY

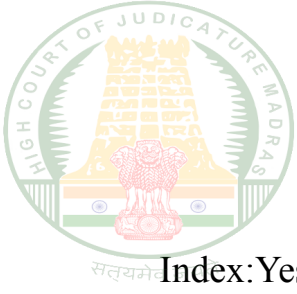
proceedings were pending before the Deputy Registrar, either under Section 87, Section 138 or under Section 139 of the Act. In the absence of any proceedings under the aforesaid provisions, the 1st respondent can have no jurisdiction to invoke Section 167 for attaching the properties of the petitioner. The pendency of the proceedings under the aforesaid provisions is a *sine qua non* for invocation of jurisdiction under Section 167 of the Act and therefore, as rightly contended by the learned counsel for the petitioner, the impugned order is without jurisdiction and liable to be quashed.

(10) Under the facts and circumstances of the case and in view of the violation of Section 167 of the Act, the impugned order dated 01.09.2022 is quashed.

(11) Accordingly, the writ petition is **allowed**. However, liberty is granted to the respondents to initiate fresh proceedings, under Section 167 of the Act, if found necessary. No costs. Consequently, connected miscellaneous petitions are closed.

17-07-2025

AP



WP No. 16169/2023



WEB

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

To

1.The Registrar of Cooperative Societies

170, Periyar EVR High Road

Kilpauk, Chennai 600 010.

2.The Joint Registrar of Cooperative Societies

O/o.Joint Registrar of Cooperative Societies

District Collector's Office Campus

Dharmapuri 636 705.

3.The Deputy Registrar of Cooperative Societies

O/o.Deputy Registrar of Cooperative Societies

District Collector's Office Campus

Dharmapuri 636 705.

4.The Sub Registrar, O/o.Sub Registrar

Department of Registration, Harur, Harur Taluk

Dharmapuri District.



WEB COPY

WP No. 16169/2023



N.MALA J.

AP

WP No.16169/2023

17-07-2025