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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2025

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THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 22374 of 2022

And

W.M.P.Nos. 21426 & 24303 of 2022

D.Kuppulakshmi

... Petitioner

..Vs..

1. The Deputy Registrar of Cooperative Societies
Villupuram Circle, Villupuram, Villupuram District.
 2. The President
E 2028, Kandamanadi Primary Agricultural
Cooperative Credit Society, Kandamanadi
Villupuram District.
- ... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari calling for the entire records relating to the impugned auction notice issued by the first respondent in Form Nos. 8 and 9 in E.P.No.12/2022-2023, dated 22.07.2022 and quash the same.



For Petitioner :: Mr. C.Prakasam
For Respondents :: Mr. S.Ravikumar
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of Certiorari seeking records relating to an auction notice issued by the first respondent / Deputy Registrar of Cooperative Societies, Villupuram Circle, Villupuram, in E.P.No.12/2022-2023 dated 22.07.2022 and quash the same.

2. In the affidavit filed in support of the Writ Petition, the petitioner has stated that her husband Chandran was working as Secretary in the second respondent society at Villupuram District. He faced enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act 1983. An enquiry officer was appointed and he filed a report under Section 87 of the said Act on 13.09.2017 determining liability on the husband of the petitioner and three other employees to a sum of Rs.33,04,205/-. It is further contended that unfortunately, the husband of the petitioner expired on 11.05.2021. The petitioner is a legal heir along with her sons and her mother-in-law. The first respondent issued an auction notice dated 22.07.2022 brining the property of the petitioner for auction. It is contended that the



petitioner had purchased the property in the year 1997 out of her own earnings, since she was working as Government Teacher at Panchayat Union Middle School, Salamedu, Villupuram District. It is therefore contended that she can establish source for purchase of the property. Therefore, it is contended that the first respondent had erred in bringing her property to sale. The learned counsel for the petitioner therefore stated that the auction notice has to be set aside by this Court since the petitioner had purchased the property out of her own earnings in the year 1997 even prior to the surcharge notice which was issued only in the year 2017.

3. These are facts which can be examined by the Sales Officer if a claim petition is filed under Rule 135 of the Tamil Nadu Co-operative Societies Rules 1988. Rule 135 of the said Rule is as follows:-

“135. Investigation of claims and objections to attachment of property.

(1)Where any claim is preferred to, or any objection is made to, the attachment of any property attached under these rules on the ground that such property is not liable to such attachment, the Sale Officer shall



investigate the claim or objection and dispose of it on merits: Provided that no such investigation shall be made when the Sale Officer considers that the claim or objection is frivolous.

(2) Where the property to which the claim or objection relates has been advertised for sale, the Sale Officer may postpone the sale pending the investigation of the claim or objection.

(3) Where a claim or an objection is preferred, the party, against whom an order is made by the Sale Officer, may institute a suit within six months from the date of the order to establish the right which he claims to the property in dispute, but subject to the result of such suit, if any, the order made by the Sale Officer shall be conclusive. "

4. A perusal of the aforementioned Rule shows that when a claim petition is preferred, the Sales Officer should investigate on the said claim unless he comes to an opinion that it is frivolous. A direction is therefore placed that if the petitioner files claim petition, the Sales Officer must examine the claim petition filed by the petitioner.



5. Sub-Rule 2 of the said Rule provides that the Sales Officer should postponed the sale pending examination of the claim. Sub Rule 3 of the said Rule provides that where an order is passed, then the same could be further agitated before the jurisdictional District Court and the suit has to be filed within a period of six months from the date of order of the Sales Officer.

6. A direction is given that the petitioner and the Sales Officer in this case should adhere to Rule 135 of the said Rules and the procedure laid down thereunder. If the petitioner files an application raising claim and if such application is filed on or before 24.01.2025, then the sale may be postponed and the application may be examined and appropriate orders may be passed under Rule 135(3) of the Tamil Nadu Co-operative Societies Rules 1988.

7. The Writ Petition stands disposed of. Consequently, connected Miscellaneous Petitions stand closed. No order as to costs.

08.01.2025

vsg
Index: Yes/No
Internet: Yes/No
Speaking / Non Speaking Order

Note: Issue order copy on 10.01.2025

C.V.KARTHIKEYAN, J.,



WEB COPY

To

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Villupuram Circle, Villupuram, Villupuram District.
2. The President
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