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W.P.No.36958 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2025

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**Writ Petition No.36958 of 2024
and WMP Nos.39910 & 39911 of 2024**

K.Murugan

.... Petitioner

-Vs-

1.The Deputy Registrar of Co-operative Societies
Office of the Deputy Registrar
Krishnagiri District.

2.The Sub Registrar
Office of the Sub Registrar
Kaveripattinam Post & Taluk
Krishnagiri District.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the conditional order passed by the 1st respondent in C.E.P.No.09/2020-2021/ Sa.Pa.1 dated 22.06.2020 under Section 167(2) of the Tamil Nadu Cooperative Societies Act 1983 quash the same and consequently direct the respondents to nullify the order of the attachment made in petitioners properties in Survey Nos.21/9A4, 30/6 and 34/2C measuring an extent of 76.50 Hectares situated at Thallihalli Village, Krishnagiri Taluk and District.



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For Petitioner : Mr.M.Kaviverappan

For Respondents : Mr.A.Anandan
Government Advocate

ORDER

The Writ petition has been filed in the nature of a Certiorarified Mandamus, seeking records relating to an order passed by the 1st respondent on 22.06.2020 under Section 167(2) of the Tamil Nadu Co-operative Societies Act, 1983 and quash the same. The petitioner seeks that the order of attachment given with respect to properties in Survey Nos.21/9A4, 30/6 and 34/2C measuring 76.50 hectares situated at Thallihalli Village, Krishnagiri Taluk.

2.In the affidavit filed in support of the writ petition, it had been stated that the father of the petitioner was the absolute owner of the aforesaid mentioned properties and other properties. It had been stated that the father unfortunately died on 20.02.2017. The petitioner had been in enjoyment of the property. The petitioner came to know that the 1st respondent had attached the properties by invoking power under Section 167 (2) of the Tamil Nadu Co-operative Societies Act, 1983. It had been stated that the said attachment was consequent to determination of financial irregularities in Malaiyandahalli Primary Agricultural



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Co-operative Credit Society. The petitioner claims that since he is a third party to the said proceedings and that he has not involved in such misappropriation, the property should not be the subject matter of attachment.

3.In the counter affidavit filed it had been however stated that the property which had been attached belonged to C.Pachiammal and others and that they were responsible for the misappropriation caused to the Society. It had therefore been stated that it was under after following due procedure that such attachment have been made. Further objection has been raised in the counter affidavit relating to maintainability of the writ petition particularly when Rule 135 of the Tamil Nadu Co-operative Societies Act, 1983 provides for a third party to file claim application before the Sales Officer and an obligation is placed on the Sales Officer to pass adjudicate on such claim petition.

4.The petitioner, as on date is the owner of the property. The property has been attached after following due procedure by the respondents. The property had been attached owing to allegations of misappropriation in Malaiyandahalli Primary Agricultural Co-operative Credit Society. The said misappropriation happened when one C.Pachiammal, W/o.Chinnasamy was the Director of the



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said Society. The petitioner cannot therefore claim ignorance or innocence of such attachment. The properties stand attached. If the petitioner claims that he has right to be heard and that the properties should be removed from the attachment, hee can always file an application under Rule 135 of the Tamil Nadu Co-operative Societies Act, 1983 and necessary enquiry in that regard may be made. Under Rule 135 (3), if any order is passed adverse to the writ petitioner, then the petitioner will have to file a suit within a period of six months before the jurisdictional District Court. When the Act under the Rule provides a specific avenue for adjudication of these issues, it would be extremely inappropriate on the part of this Court to examine the correctness of the order of attachment under Article 226 of the Constitution of India.

5.The Writ Petition stands dismissed, however, giving liberty to the petitioner to file a necessary claim petition under Rule 135 of the Tamil Nadu Co-operative Societies Rules 1988. No costs. Consequently, connected miscellaneous petitions are closed.

07.01.2025

Index : Yes/No

NCS : Yes/No

KP



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Krishnagiri District.
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Office of the Sub Registrar
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C.V.KARTHIKEYAN.,J
KP

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