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W.P. No. 40960 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.11.2025

CORAM

THE HON'BLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P. No. 40960 of 2025

and

W.M.P. Nos. 45913 & 45914 of 2025

A.Abarna Devi

...Petitioner

Vs.

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

2.The Administrator
ZB-65, Elanthoppu Primary Agricultural
Cooperative Credit Society
Elanthoppu Village & Post
Mayiladuthurai Taluk & District.

3.The District Registrar
Registration Department
Mayiladuthurai, Mayiladuthurai District.

4.The Sub Registrar
Registration Department
Mayiladuthurai
Mayiladuthurai District.

...Respondents

Prayer : This writ petition has been filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order passed by the 1st respondent in his



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proceedings Na.Ka.1298/2021/SaPa dated 26.09.2025 and quash the same and consequently directing the respondents 3 and 4 not made any endorsement for encumbrance on the petitioner's property situated in S.No. 306/1A, Elanthoppu Village, Mayiladuthurai Taluk and District.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.C.Sathish, GA (R2)
Mr.M.S.Arasakumar, GA (RR3 & 4)
Mr.S.Ravikumar (R1)

ORDER

The petitioner is the daughter of one Ameerhyderkhan. The petitioner is the progeny of the wedlock between the said Ameerhyderkhan and one, Parameswari.

2. The petitioner's father was a Secretary of the 2nd respondent society. He was visited with surcharge proceedings for alleged malfeasance during his tenure as the Secretary of the 2nd respondent society. The surcharge order was passed quantifying the loss at Rs.16,32,253/-. Aggrieved by the same, Mr.Ameerhyderkhan has also preferred an Appeal before the Principal District Judge cum Co-operative Tribunal at Mayiladuthurai in C.M.A. No. 348 of 2021. The appeal is said to be pending. The petitioner's father was dismissed from service and he has also challenged the said dismissal in W.P. No. 35739 of



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2023. As there is no interim order in any of the proceedings, the 1st respondent had proceeded to attach the property in his proceedings Na.Ka. 1298/2021/Sa.Pa. dated 26.09.2025. The communication sent by the 1st respondent was also forwarded to the 3rd and 4th respondents for making endorsement in the encumbrance certificate of the property. Challenging the same, the present Writ Petition.

3. It is the case of the petitioner that the property attached is not an exclusive property of her father, Mr.Ameerhyderkhan. She states that the property was purchased by her mother, Parameswari in the year 2011. Parameswari unfortunately passed away in the year 2012 leaving behind her husband and the petitioner as her legal heirs. The petitioner pleads that while the respondents can proceed against the share of her father for the alleged amount crystallized under the surcharge order, she, not being a member or servant of the 2nd respondent society, is not answerable to the said amount. Hence, this Writ Petition.

4. I heard Mr.C.Prakasam, for the petitioner, Mr.S.Ravikumar, for the 1st respondent, Mr.C.Sathish, for the 2nd respondent and Mr.M.S.Arasakumar, for



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the 3rd and 4th respondents.

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5. The plea of the petitioner is literally in nature of a Claim Petition filed asserting that her share of the property cannot be attached for execution of the surcharge order passed against her father.

6. A Claim Petition requires evidence, both documentary and oral. Under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, the 1st respondent has been empowered to entertain Claim Petitions and decide whether a person making a claim over the property has any right, title or interest over the same. Such an enquiry would also include whether the claimant has a fractional share of the property. When Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988 exists, I do not wish to don on myself, the role of the 1st respondent and decide whether the petitioner has an interest over the property. Hence, the petitioner is relegated to the 1st respondent to file a Claim Petition under Rule 135 and work out her rights in accordance with law.

7. Mr.C.Prakasam, pleads that in the meantime, if the property is sold in a public auction, third party rights would intervene and the petitioner would be put to irreparable loss and prejudice.



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8. I find a lot of strength in this submission. Hence, this writ petition is disposed in the following terms:-

1. The petitioner shall file a Claim Petition before the 1st respondent within thirty(30) days from today;
2. To avoid the property being brought for sale in a auction, the petitioner shall deposit 50% of Rs.16,32,253/- with the 1st respondent. The deposit shall be made within a period of six(6) weeks from today;
3. In case the deposit is not made, the 1st respondent is free to proceed with the execution of an order of sale, and such sale shall be subject to the result of the Claim Petition;
4. The amount, if deposited, shall be kept in an interest bearing account, and in the event of success of writ petitioner in the Claim Petition, the said amount will be returned to her, together with any interest that would have accrued on such deposit;
5. The disbursal of the amount, in event of the petitioner succeeding, shall be a part of the order to be passed in the Claim Petition.

No costs. Consequently, connected miscellaneous petitions are closed.



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9. The parties shall act on the web-copy of this order and shall not wait for certified copy of this order.

10.11.2025

Index : Yes/No

Internet: Yes/No

Speaking or Non-speaking order

Maya

Note : Upload the order copy by 12.11.2025.

To

1. The Deputy Registrar of Co-operative Societies
Mayiladuthurai Circle, Mayiladuthurai
Mayiladuthurai District.
2. The Administrator
ZB-65, Elanthoppu Primary Agricultural
Cooperative Credit Society
Elanthoppu Village & Post
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V.LAKSHMINARAYANAN, J.

Maya

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