



W.P.No.40705 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.11.2025

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.No.40705 of 2025
and
W.M.P.No.45621 of 2025

R.Settu
S/o.Rama Gounder
No.3/62, TVS Nagar
Theevattipatti, Omalur Taluk
Salem District.

.. Petitioner

VS

1. The Joint Registrar of Cooperative Societies
Salem Region, Salem, Salem District.
2. The Deputy Registrar of Cooperative Societies
Omalar Circle, Omalar, Salem District.
3. The Administrator
S.1073 Kundukkai Primary Agricultural Cooperative
Credit Society
Kundukkal, Konreddiyur, Kadayampatti
Salem District.
4. The Cooperative Sub Registrar / Sale Officer
S.1073 Kundukkai Primary Agricultural Cooperative
Credit Society
Kundukkal, Konreddiyur, Kadayampatti
Salem District.

... Respondents



W.P.No.40705 of 2025

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the entire records relating to the impugned order passed by the 4th respondent in his proceedings No.Nil dated 11.08.2025 and quash the same.

For Petitioner : Mr.C.Prakasam

For Respondents : Mr.M.Muthusamy
Government Advocate
for R1, R2 and R4
Mr.D.Gopal
Government Advocate, for R3

ORDER

The petitioner suffered an order of surcharge on 13.06.2020. Aggrieved by the same, he has preferred an appeal before the learned Principal District Judge cum Special Tribunal for Cooperative Societies, Salem District. The said appeal has been numbered as CMA(CS) No.27 of 2020.

2. On an earlier occasion, the petitioner moved this Court, challenging the notification of auction. The Hon'ble Mr.Justice P.D.Audikesavalu, by an order dated 20.10.2023 directed as follows:

"3. It is informed that the said appeal before the



W.P.No.40705 of 2025

Principal District Judge / Special Tribunal for Cooperative Societies Cases, Salem District is posted for next hearing on 17.11.2023 and learned counsel for the parties agreed that they would cooperate for making their submissions in that appeal before the Tribunal on the said date and in such circumstances, the proposed auction would be adjourned to a date after 14.12.2023, and the same is recorded. In view of the same, nothing remains for further consideration in the writ petition, but it would not preclude the petitioner, if he has any further grievance, to work out his remedies before the proper forum in the manner recognized by law. It is needless add here that no view has been expressed by this Court on the merits of the controversy involved in the matter."

Mr.C.Prakasam reports that despite the direction given by this Court, the learned Principal District Judge, Salem District has not disposed of the appeal.

3. The petitioner filed an application stating that the property which is sought to be auctioned, belongs to his wife, who had, in turn settled the property in his name at least 15 years prior to the alleged malversation of funds. Hence, the present order is put to challenge before me.



W.P.No.40705 of 2025

4. I heard Mr.C.Prakasam, for the petitioner, Mr.M.Muthusamy, for respondents 1, 2, 4 and Mr.D.Gopal, for the third respondent.

5. When an appeal, challenging the very basis of the execution proceedings is pending, before the Appellate Authority, who is the Principal District Judge, entertaining the writ petition may not be proper. The Hon'ble Mr.Justice P.D.Audikesavalu, has already ordered that the appeal will be disposed of at an earlier date. Mr.C.Prakasam urges that the appeal has been adjourned at the instance of the respondents, and the petitioner, at all points of time, has been ready to proceed with the appeal. If that be the situation, it is for the client of Mr.C.Prakasam to file a stay application before the Appellate Authority, pointing out the *prima facie* case in his favour, as well as, the recalcitrant attitude of the respondents and to seek an order of stay. A writ petition challenging an order passed pending an appeal before the jurisdictional Court, in my view, is untenable.

6. Granting liberty to the petitioner to file an appropriate stay application and to seek any interlocutory order, as he may be so advised, this writ petition is dismissed. Consequently, connected miscellaneous



W.P.No.40705 of 2025

petition is closed. There shall be no order as to costs.

WEB COPY

03.11.2025

Speaking order/non-speaking order

Index : Yes/no

Neutral Citation : Yes/No

mk

To

1. The Joint Registrar of Cooperative Societies
Salem Region, Salem, Salem District.
2. The Deputy Registrar of Cooperative Societies
Omalur Circle, Omalur, Salem District.
3. The Administrator
S.1073 Kundukkai Primary Agricultural Cooperative
Credit Society
Kundukkal, Konreddiyur, Kadayampatti
Salem District.
4. The Cooperative Sub Registrar / Sale Officer
S.1073 Kundukkai Primary Agricultural Cooperative
Credit Society
Kundukkal, Konreddiyur, Kadayampatti
Salem District



WEB COPY



W.P.No.40705 of 2025

V. LAKSHMINARAYANAN, J.

mk

W.P.No.40705 of 2025

03.11.2025