



WEB COPY

WP No. 43158 of 2025



DATED: 13-11-2025

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THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No. 43158 of 2025

and

W.M.P.Nos.48301 & 48302 of 2025

A.Shanmugham

Petitioner(s)

Vs

1. The Deputy Registrar,
of Co- Operative Societies,
Tiruchengode Circle, Tiruchengode,
Namakkal District.

2.The Administrator,
No.8994 Tiruchengode Cooperative
Urban Bank Ltd, Tiruchengode,
Namakkal District.

3.The Sale Officer
No.8994 Tiruchengode Cooperative
Urban Bank Ltd, Tiruchengode,
Namakkal District.

Respondent(s)

PRAYER

Writ Petition filed under Article 226 of the Constitution of India, praying



to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned Proceedings in Na.Ka. 4763 /2025 Sa.Pa dated 13.10.2025 on the file of the 1st respondent herein, quash the same and consequently direct the 1st respondent herein to dispose of the Petitioner's Application dated 16.10.2025 filed under Section 90 (i) (b) of TNCS Act 1983 read with Rule 107 of TNCS Rules, 1988 on merits.

For Petitioner(s) : Mr.K. Govi Ganesan

For Respondent(s) : Ms.E.Ranganayaki

ORDER

The petitioner has suffered a surcharge order. It is under Section 87 of the Tamil Nadu Cooperative Societies Act. On the strength of this surcharge order, the respondents have attached the property belonging to the petitioner.

2. Against the surcharge order, the affidavit discloses that an appeal has been filed before the jurisdictional Cooperative Tribunal. There is no interim order in the appeal. In the meantime, the Second Respondent Society had initiated proceedings for attachment of the assets of the petitioner in E.P. No.20 of 2019-2020. The petitioner filed a claim petition under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988. His plea is that he had purchased the



property in 2011, which is much before the order of surcharge was passed against him. The Claim Petition was taken up for hearing by the First Respondent. He rejected the petition in Na.Ka.4763/2025 dated 13.10.2025. Challenging the same, the present writ petition is filed.

3. I heard Mr.K.Govi Ganesan, for the petitioner.

4. After narrating the facts, Mr.Govi Ganesan pleads that the alleged occurrence of the irregularity is between March 2014 and August 2015, and the properties attached were purchased four years earlier, in the year 2011. According to him, on account of the purchase having been made earlier, the property is incapable of attachment. Hence the Claim Petition. He pleads the rejection is illegal and improper.

5. I have carefully considered the submissions of Mr.Govi Ganesan.

6. A Claim Petition can be filed only by a third party to the decree. The provision under Rule 135 of the Tamil Nadu Cooperative Societies Rules are



akin to Order 21, Rule 58 of the CPC. It is unknown for a judgment debtor to file a Claim Petition. The Second Respondent Society is entitled to attach all assets standing in the name of the petitioner, irrespective of whether they were purchased before the surcharge proceedings, during or after. The power of attachment includes the power to attach a share, which belongs to the petitioner, in an ancestral property also. Hence, the year of acquisition of the property attached is absolutely irrelevant for the purpose of attachment.

7. I am of the view that the order passed by the first respondent is perfectly justified. Only a third party can maintain a petition for claim. The judgment debtor, like the petitioner, cannot. Hence, the writ petition is dismissed.

8. At this stage, Mr.Govi Ganesan pleads that this order must not stand in the way of obtaining any interim relief pending appeal before the Cooperative Tribunal.

9. I have only dealt with the scope of Rule 135 of the Rules and not with



the merits of the surcharge order. It is always open to the writ petitioner to move an application for stay. I am sure the Cooperative Tribunal will deal with the application in accordance with law.

10. With the above observations, the writ petition is dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

13-11-2025

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Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No



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