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W.P. No. 41807 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. 41807 of 2025

and

W.M.P. Nos. 46838 and 46840 of 2025

S.Kalaimani

...Petitioner

Vs.

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

2.The Administrator
No.8994, Tiruchengode Co-operative Urban Bank Ltd.
Tiruchengode, Namakkal District.

3.The Sale Officer
No.8994, Tiruchengode Co-operative Urban Bank Ltd.
Tiruchengode, Namakkal District.

4.A.Shanmugam

...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 records relating to the impugned proceedings in Na.Ka. 4764/2025 Sa Pa dated 13.10.2025 on the file of the 1st respondent herein, quash the same and



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consequently, direct the 1st respondent herein to dispose of the petitioner's application dated 02.10.2025 filed under Section 90(i)(b) of the TNCS Act, 1983 read with Rule 107 of TNCS Rules, 1988 on merits.

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

For Respondent(s) : Mr.E.Ranganayaki, AGP (RR1 to 3)

ORDER

The petitioner challenges the proceedings in Na.Ka.No. 4764/2025/SaPa, dated 13.10.2025, passed by the 1st respondent.

2. I heard Mr.K.Govi Ganesan, learned counsel for the petitioner and Mr.E.Ranganayaki, learned Additional Government Pleader appearing for the respondents 1 to 3.

3. The petitioner's husband, the 4th respondent herein was the Secretary of a Co-operative Society. Proceedings had been initiated against him for, alleged malfeasance and misappropriation of funds. It ended in a surcharge being initiated and on that basis, the 2nd respondent also initiated execution proceedings.



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4. During the course of the execution, the property situated at Plot Nos. 15 and 16 in S.F. No. 9 of K.Paramathi Village, Aravakurichi Taluk, Karur District was attached. The date of attachment is 24.12.2024.

5. The petitioner, pleading that she had purchased the property out of her own exertions and funds, filed a Claim Petition. At that time, instead of quoting, Rule 135 of the Tamilnadu Co-operative Societies Rules, 1998, the petitioner had wrongly quoted Section 90 of the Tamilnadu Co-operative Societies Act.

6. The 1st respondent paid much attention to the provision of law rather than the substance of the petition. Hence, he rejected the Petition holding that the Petition under Section 90 of the Act is untenable.

7. Right from the time Courts have been established, it has been consistently held that quoting a wrong provision of law is not fatal to a proceedings, if the authorities otherwise have jurisdiction to entertain the petition. For the mere fact that a wrong provision of law had been quoted, the petition cannot be rejected.



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8. A perusal of Rule 135 makes it clear that any person, who has a right, title or interest over the property, which is the subject matter of attachment, can file a Claim Petition. It is only after the disposal of the Claim Petition, that such claimant can approach the jurisdictional Civil Court, in the event of failure before the authority.

9. The simple case of the petitioner is that, she is the owner of the property, and not her husband. In law, wife and husband are entitled to own property independently. Whether, in fact, the petitioner is the owner of the property or whether the property has been purchased from and out of the funds given by her husband, should be investigated by the authority under Rule 135. The petition cannot be dismissed on the ground of non-applicability of Section 90. Hence, the impugned order is set aside. The petition still stands restored on the file of the 1st respondent. He shall treat it as a application under Rule 135 of the Tamilnadu Co-operative Societies Rules, 1998, and dispose of the same in accordance with law.

10. Needless to add before the orders are passed, opportunity should be granted to the both, the petitioner, as well as, the co-operative society.



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11. As no order adverse to the interest of the 4th respondent has been passed, notice is dispensed with on him. ,

12. The writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No

Internet: Yest/No

Speaking or Non-speaking order

Maya

To

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

2.The Administrator
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V.LAKSHMINARAYANAN, J.

Maya

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