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W.A.(MD)NO.1403 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE K.RAJASEKAR

W.A.(MD)No.1403 of 2025 AND

C.M.P.(MD)No.8394 of 2025

The President,
SP.SPL.151, Pattamangalam Primary
Cooperative Credit Societies,
Ilupaiur,
Virudhunagar District.

... Appellant / 3rd Respondent

Vs.

1. V.Geethalakshmi ... 1st Respondent / Writ petitioner

2. The Deputy Registrar of Cooperative Societies,
Aruppukkottai,
Virudhunagar District.

3. The Sub Registrar,
Veeracholan Sub-Registrar Office,
Veeracholan-626 612,
Virudhunagar District. ... Respondents 2 & 3 / Respondents 1 & 2

Prayer: Writ appeal filed under Section 15 of Letter Patent, to
set aside the order passed by this Court in W.P.(MD)No.17846 of
2016 dated 06.01.2025 and dismiss the writ petition.



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For Appellant : Mr.D.Shanmugaraja Sethupathi
For R-1 : Mr.T.Lajapathi Roy,
Senior Counsel,
for M/s.Roy and Roy Associates.
For R-2 & R-3 : Mr.N.Sathesh Kumar,
Additional Government Pleader.

* * *

JUDGMENT

Heard both sides.

2. The management of Cooperative Society is on appeal challenging the order dated 06.01.2025 passed by the learned single Judge allowing W.P.(MD)No.17846 of 2016 filed by the first respondent V.Geethalakshmi. V.Geethalakshmi is the wife of R.S.R.Venkadachalam who was the Secretary of the appellant Society. He is said to have committed misappropriation to the tune of more than Rs.2 Crores. Surcharge order has also been passed against him. While so, at the instance of the appellant Society, the Deputy Registrar of Cooperative Society passed order under Section 167 of the Tamil Nadu Cooperative Societies Act attaching the writ petitioner's properties. Three items of the properties belonging to the writ petitioner were attached.



WEB COPY 3. The learned single Judge set aside the order of attachment.

The question that calls for consideration is whether the learned single Judge was justified in setting aside the order of attachment.

4. It is seen that two items of properties (2 and 3) are covered vide sale deed dated 29.03.2012 standing in the name of the writ petitioner. Even according to the appellant Society, the period of misappropriation covered by the surcharge order is 2013-16. The aforesaid two items of properties were purchased prior to the said check period. This Court in the decision reported in **2009 SCC OnLine Mad 61 (V. Sundaram Vs. The Deputy Registrar Cooperative Societies (Milk), Vellore District)** had held as follows:-

“6.A plain reading of Section 167 of the Tamil Nadu Cooperative Societies Act would make it clear that an order of attachment before judgment under Section 167(1) of the Act or conditional attachment under Section 167(2) of the Act could be made only in cases where there is already a case pending on the file of the Deputy Registrar either under Section 87 or under Section 90 or under Section 130 or under Section 139 of the Tamil nadu Cooperative

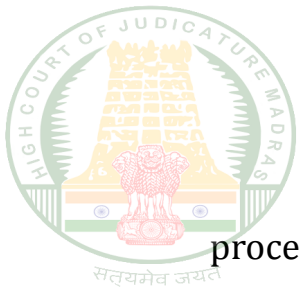


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Societies Act. Without satisfying the said condition precedent, it is not at all available for the Deputy Registrar to issue any order under Section 167 of the above said Act. Here, the proceeding Number itself is Cooperative Executive petition No. 1/2008. It is contended that the petitioner has paid fees prescribed under the Tamil Nadu Cooperative Rules for Execution of a decree. I am at a loss to understand as to how an execution petition could be entertained by the Deputy Registrar when there is no award at all capable of being executed. In that view of the matter, I have to necessarily hold that the impugned order is without jurisdiction and therefore, the same is liable to be quashed."

5. In respect of the aforesaid two items, there is nothing on record to show that they were purchased with the money siphoned in the funds of the Society. Therefore, we confirm the order of the learned single Judge in respect of two items of the properties (2 and 3). With regard to first item, it is seen that this purchase was made in the year 2016. According to the appellant, this item of property was purchased by committing misappropriation of funds. The writ petitioner denies this. This fact will have to be established only in the enquiry. It is a pure question of fact and cannot be adjudicated in writ



proceedings. The order of the learned single Judge is set aside in respect of the first item. Leaving the remedy available to the writ petitioner, this writ appeal is partly allowed. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.SWAMINATHAN, J.) & (K.RAJASEKAR, J.)
29th July 2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

PMU

To:

1. The Deputy Registrar of Cooperative Societies,
Aruppukkottai,
Virudhunagar District.
2. The Sub Registrar,
Veeracholan Sub-Registrar Office,
Veeracholan-626 612,
Virudhunagar District.



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G.R.SWAMINATHAN, J.

AND

K.RAJASEKAR, J.

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