



W.P.(MD)No.21071 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.21071 of 2022

and

W.M.P(MD)No.15299 of 2022

M.Mathiradevi

... Petitioner

Vs.

1. The Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Lalgudi Circle,
Lalgudi,
Trichy District.
2. The Sub Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Lalgudi,
Trichy District.
3. M/s.R-939 Thachankurichi Primary,
Agricultural Cooperative Credit Society,
Represented by its Secretary (in-charge),
Tachankurichi, Lalgudi Taluk,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned proceedings issued by the 1st respondent dated 24.08.2022, vide proceedings in C.E.P.No.1/2022-23 in



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surcharge order No.1057/2020/ VE SE SA along with proceedings dated 24.08.2022 and quash the same as illegal and unconstitutional and consequently directing the respondents to raise the attachment order made in respect of the petitioners properties comprised in Survey Nos.83/10, 83/7D, 84/1B, 84/5D, 84/7C, 84/9 and 86/1, situated at Puthur Uthamanur Revenue Village, Lalgudi Taluk, Trichy District.

For Petitioner : Mr.P.Mahendran

For Respondents : Mrs.D.Farjana Ghoushia
Special Government Pleader

ORDER

The present writ petition has been filed seeking to quash the order of attachment passed by the 1st respondent herein under Section 167 (2) of the Tamil Nadu Cooperative Societies Act, 1983 read with Rule 140 of the Tamil Nadu Cooperative Societies Rules, 1988.

2. The petitioner's son namely one Deivaraj was working as the President of the 3rd respondent society for the period between 01.04.2019 to 31.12.2017. For the allegations as against him, proceedings were initiated under Section 81 of the Tamil Nadu Cooperative Societies Act.

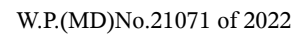


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Based upon the report under Section 81 of the Tamil Nadu Cooperative Societies Act, surcharge proceedings were initiated under Section 87 and surcharge order was passed on on 22.02.2021. The said Deivaraj has not challenged the surcharge order so far.

3. It is also brought to the notice of the Court that the name of the petitioner has not been subjected to 81 enquiry or 87 enquiry or any proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act.

4. According to the learned counsel appearing for the writ petitioner without subjecting the writ petitioner in any one of the proceedings under Section 81, 87 or 90 of the Tamil Nadu Cooperative Societies Act, an order of attachment cannot be passed. In case if any such order of attachment is passed, it would be clearly in violation of Section 167 of the said Act.



6. According to the learned counsel appearing for the petitioner, all the 7 items shown in the order of attachment were purchased by the writ petitioner under a registered document dated 27.03.1986 vide document no.371 of 1986 on the file of the Sub-Registrar, Lalgudi, when the delinquent employee was 7 years old.

7. In such circumstances, there is no connection what so ever between the alleged misappropriation of the delinquent and the purchase of properties made by the mother of the delinquent. Hence, he prayed for allowing the writ petition to raise the order of attachment.



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8. Per contra, the learned Special Government Pleader appearing for the respondents submitted that the petitioner has to approach the authority under Rule 135 of the Tamil Nadu Cooperative Societies Rules to establish her rights over the disputed property. Any application for raising an order of attachment by way of a writ petition under Article 226 is not maintainable. She further submitted that the veracity of the averment made in the affidavit have to be ascertained and a proceedings should be initiated.

9. Heard the learned counsel on either side and perused the materials available on records.

10. A perusal of the records clearly indicate that the petitioner has purchased the property, which are attached by the 1st respondent, by way of a Sale Deed dated 27.03.1986, when the delinquent was 7 years old. Therefore, by no stretch of imagination the purchase of the property can be connected to the alleged misappropriation of the delinquent namely Mr. Deivaraj.



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11. This Court in the Judgement reported in 2016 SCC OnLine

Madras 9775 in paragraph 6 held as follows:-

“6. This Court had an occasion to deal with Section 167 of Tamil Nadu Co-operative Societies Act (hereinafter, it may be referred to as 'the Act') and Rules 135 and 140 of Tamil Nadu Cooperative Societies Rules (hereinafter, it may be referred to as 'the Rules') In W.P.(MD) No. 3836 of 2009 and found that attachment of the property can be made by the Registrar of Co-operative Societies only in certain circumstances, Attachment can be made pursuant to the action taken under Section 90 of the Act as per the orders of the Liquidator under Sections 138 and 139. The provisions of the Act clearly says that recovery can be made firstly from the properties of the registered society, secondly in the case of a society the liability of the members of which is limited from the members, past members or the nominees of the deceased members subject to the limit of their liability and thirdly, in the case of other societies from the members, past members or the nominees of the deceased members. The entire scheme of the Act deals with only in respect of settlement of dispute between the members, past members or nominees of the deceased members or borrowers or against whom decree is passed in accordance with law under surcharge proceedings by the Co-operative Society or the Registrar are liable for attachment. Therefore, the attachment in respect of the properties belonging to the third parties has not been provided in the Act or in the Rules. A reading of the concerned statutory provisions of the Act and Rules do not reveal action to be taken against the third parties or attachment of the properties belonging to them. Therefore, the arguments of the writ petitioner that the petitioner is neither a member nor a borrower of the Bank has much force. The action of the respondent insofar as the attachment of the property of the third party is concerned, it is without jurisdiction and therefore, the attachment of the petitioner's property is liable to be set aside.”



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12. The said judgement was put to challenge by the Cooperative Society before the Hon'ble Division Bench in W.A.(MD).No1511 of 2018. The Hon'ble Division Bench in its order dated 11.12.2018 has dismissed the writ appeal. Paragraph 9 of the order of the Hon'ble Division Bench is extracted as follows:-

“9. So long as the provision of Co-operative Societies Act or Rules framed therein do not contemplate a statutory fiction or presumption in favour of the society to proceed against the property of a stranger, this Court is of the view that the order impugned in the Writ Petition cannot be sustained. However, it is open to the Registrar or the person authorised by him acting under Section 87 of the Act to initiate action to proceed against the property in accordance with law after establishing the fact the property of a close relative of the delinquent was in fact the property purchased out of money provided by the delinquent. In that view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge of this Court, allowing the writ petition.”

13. In view of the above said facts, it is clear that no proceedings having been initiated as against the writ petitioner either under Sections 81 or 87 or 90 of the Tamil Nadu Cooperative Societies Act and the petitioner having established the fact that she had purchased the property in the year



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1986 itself, the order of attachment is liable to be set aside and it is accordingly set aside.

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14. Accordingly, the writ petition stands allowed. No costs.
Consequently, connected miscellaneous petition is closed.

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(1/2)

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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