

W.P.(MD) No.20216 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.07.2025

CORAM

THE HON'BLE MR.JUSTICE C. SARAVANAN

W.P.(MD) No.20216 of 2025

and

W.M.P.(MD) No.15588 of 2025

V.Sundararajan

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative
Societies, Trichy.

2.The General Manager,
R 1173 Srirangam Cooperative Urban Bank,
43, South Chithirai Street,
Srirangam, Trichy.

3.The Cooperative Sub Registrar/Administrator,
R 1173 Srirangam Cooperative Urban Bank,
43, South Chithirai Street,
Srirangam, Trichy.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned proceedings of the first respondent in ARC No.31/2025-26 Nil dated and the consequently final conditional attachment in CEP No.28/2025-26 in ARC No.31/2025-26 in R.C.No. 1998/2025/ 1 dated 08.07.2025, quash the same and also consequently



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direct the respondents to disburse the fixed deposit of the petitioner within the stipulated time.

For Petitioner : Mr.C.Jeganathan
For R1 : Mr.D.Ghandiraj
Special Government Pleader
For R2 & R3 : Mr.D.Shanmugaraja Sethupathy

ORDER

The petitioner is before this Court challenging the impugned interlocutory order dated 08.07.2025, passed by the first respondent under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983.

2. By the impugned order, the petitioner has been called upon to furnish security for a sum of Rs.1,41,60,491/- and has also been prohibited from transferring or changing the property specified in the Schedule.

3. The argument of the petitioner is that the petitioner was serving as General Manager in the second respondent Cooperative Urban Bank and attained the age of superannuation on 30.11.2022. It is submitted that after the petitioner's retirement, the terminal benefits given to the

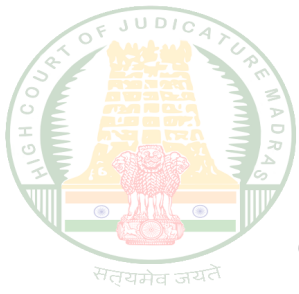


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petitioner were deposited in the second respondent Cooperative Urban Bank by the petitioner as fixed deposit to earn interest during his retired life, which are now sought to be attached.

4. It is submitted that proceedings under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983 were initiated on 28.04.2025. It is further submitted that, despite the initiation of proceedings under Section 81 of the Act for conducting enquiry and thereafter taking the matter to its logical end by way of surcharge proceedings under Section 87 of the Act, the respondents have initiated proceedings under Section 90 of the Act and subsequently passed the impugned order, attaching only the assets held by the petitioner. It is submitted that the initiation of proceedings under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 is without jurisdiction.

5. That apart, it is submitted that during the pendency of the aforesaid proceedings, a notice was issued on 04.07.2025, and the impugned order was passed on 08.07.2025 without affording sufficient time to the petitioner to show cause as to why the petitioner's assets should not be attached.



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6. Per contra, the learned counsel for the first and second respondents submits that the petitioner has an alternate remedy before the Appellate Authority under Section 152(2) of the Tamil Nadu Co-operative Societies Act, 1983. That apart, it is submitted that the law on the subject is clear in terms of the decision of the Principal Seat of this Court in ***P.Elias v. The Special Officer, Kumari District Tailoring Women Development Cottage Co-operative Society Limited***, reported in 2013 SCC OnLine Mad 2197.

7. A reading of the affidavit filed in support of the present Writ Petition, particularly paragraph (f) of the Grounds, reveals that the petitioner himself had requested liquidation of the fixed deposit and savings, which impelled the respondents to attach the fixed deposit and the amounts lying with the second respondent, Co-operative Urban Bank. The proceedings under Section 87 of the Act are mutually exclusive of those under Section 90 of the Act. It is for the respondents to choose the remedy available to them, as held by the Principal Bench of this Court in *P. Elias* case referred to supra, wherein it has been held as under:

“32. Having analysed the law on the subject in the light of the judgements of the Hon'ble Supreme Court, now, it is the time for me to summarise the emerging



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principles as follows:

(i) Section 87 of the Tamil Nadu Co-operative Societies Act is a special provision whereas Section 90 is a general provision and they are overlapping.

(ii) To initiate a proceeding under Section 87 of the Tamil Nadu Co-operative Societies Act, it is necessary that it should be preceded by an audit under Section 80; or an enquiry under Section 81; or inspection or investigation under Section 82; or inspection of books under Section 83 of the Tamil Nadu Co-operative Societies Act; or winding-up of the Society.

(iii) To initiate a proceeding under Section 90 of the Tamil Nadu Co-operative Societies Act, no such Audit Report under Section 80; or Enquiry Report under Section 81; or an inspection or investigation under Section 82; or inspection of books under Section 83; or winding-up of the Society is a condition precedent.

(iv) A claim arising out of a transaction may fall both within the ambit of Section 87 & Section 90 of the Tamil Nadu Co-operative Societies Act.

(v) If the claim is based on an Audit Report under Section 80; or Enquiry Report under Section 81; or inspection or investigation under Section 82; or inspection of books under Section 83 of the Tamil Nadu Co-operative Societies Act; or winding-up of the Society, the claim shall be made only under Section 87 of the Tamil Nadu Co-operative Societies Act and the same shall not be made under Section 90 of the Tamil Nadu Co-operative Societies Act. To this extent, Section 90 shall stand excluded by Section 87 of the Tamil Nadu Co-operative Societies Act since Section 87 is a special provision whereas Section 90 is a general provision.



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(vi) Depending upon the nature of the business of the Society, the misappropriation or fraudulent retention of money or other property, or breach of trust, or loss caused to the Society, may also constitute a dispute touching the business of the Society in terms of Section 90 of the Act provided there is nexus between the business of the Society and the act of the individual which resulted in loss.”

8. Under these circumstances, I am of the view that there is no merit in the challenge to the impugned order passed by the first respondent under Section 90 of the Act.

9. However, liberty is given to the petitioner to file an appropriate application before the first respondent, explaining the case as to why the interlocutory order should be vacated and the order of attachment should be raised.

10. If such an application is filed by the petitioner, the first respondent shall consider the same and dispose of it on merits and in accordance with law, as expeditiously as possible. Needless to state, before passing such an order, the petitioner shall be heard.



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11. Accordingly, this Writ Petition stands disposed of with the above observations. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Index : Yes / No

Neutral Citation : Yes/No

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C.SARAVANAN, J.

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