



W.P.(MD) No.16466 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.16466 of 2015
and
M.P.(MD) Nos.1 and 2 of 2015

R.Ramani

.. Petitioner

Vs.

1.The Deputy Registrar of
Co-operative Societies,
B4/68, Nehruji Nagar 3rd Street,
Dindigul-1.

2.The Sale Officer,
Office of the Deputy Registrar of
Co-operative Societies,
B4/68, Nehruji Nagar 3rd Street,
Dindigul-1.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for issuance of Writ of Certiorari, to call for the Form-7 notice
dated 10.08.2015 and the consequent notice of auction sale dated
30.09.2015 as per the advertisement in Daily Thanthi dated 30.08.2015



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in C.E.P.435/2008 and E.P.17/2009 on the file of the 2nd respondent and quash the same.

For Petitioner : Mr.V.O.S.Kalaiselvam

For Respondents : Mr.J.K.Jayaselan
Government Advocate

ORDER

The challenge in the writ petition is to an order passed under Rule 126 of the Tamil Nadu Co-operative Societies Rules, 1988 (hereinafter referred to as “the Rules”) seeking to attach the property of the petitioner for a due of sum of Rs.4,91,200/-.

2. The learned counsel appearing for the petitioner would submit that under surcharge proceedings dated 12.03.2009 in Proceedings Nos. 4/2008, the petitioner along with others were held to be responsible for a loss of a sum of Rs.4,91,200/- being the amount not collected from the members of the Society. He would submit that the petitioner had in fact been instrumental in collecting nearly a sum of Rs.14 Lakhs from his members after the surcharge proceedings. He would further submit that



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even in the surcharge proceedings, there is no overt act on the part of the petitioner in failing to collect the dues and the only allegation is that the petitioner had failed to supervise the collection of the dues, which would itself mean that the petitioner was not responsible for collecting the dues. When that be so, the petitioner's property now cannot be proceeded with under Rule 126 of the Rules and therefore, he would seek indulgence of this Court to set aside the order impugned and the consequential auction notice issued in respect of the petitioner's property.

3. Countering his arguments, Mr.J.K.Jayaselan, learned Government Advocate would contend that there were five surcharge proceedings, wherein the loss was fixed at Rs.40,79,270/- to the Society. He would further submit that the petitioner being the Secretary was responsible for the loss to the Society and that, out of the sum of Rs.40,79,270/-, a sum of Rs.36,78,344/- had been recovered and the petitioner's contribution of Rs.4,91,200/- is yet to be recovered. He would further submit that the petitioner is also liable to pay interest at the rate of 18% on the liability fixed on the petitioner. Therefore, he would



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submit that there is no necessity for any indulgence for this Court in favour of the writ petitioner.

4. I have considered the rival submissions made by the learned counsel on either side.

5. The petitioner was a former Secretary of the Primary Agricultural Co-operative Bank and admittedly, he had been proceeded with under Section 87 of the Tamil Nadu Co-operative Societies Act, 1983. By an order dated 12.03.2009, the petitioner along with others have been jointly and severally held liable for a loss of sum of Rs.4,91,200/-, which was directed to be recovered against them.

6. Even though the learned Government Advocate had argued that there are five surcharge proceedings in which a total sum of Rs.40,79,270/- was found to be the loss that had been sustained by the Society, to the specific query as to whether the petitioner was involved in all the surcharge proceedings, it has been admitted by the learned



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Government Advocate that the petitioner has been involved in one surcharge proceedings in Proceedings No.4/2008.

7. A counter has also been filed by the first respondent, where a positive admission has been made that a sum of Rs.22,17,236/- has been recovered from the former Secretary of the Society. The petitioner had also claimed that he was instrumental in recovery of a sum of Rs.14,10,249/-, which was also not disputed in the counter. The petitioner was only jointly and severally held to be responsible for the loss of a sum of Rs.4,91,200/-. When that is the factual position and the undisputed fact that the petitioner had been instrumental in collecting a sum of Rs.14 Lakhs and odd, I do not find any reasons as to why the petitioner should further be proceeded against by bringing the property of the petitioner for sale. The liability of the petitioner was only assessed at Rs.4,91,200/- and the petitioner has been instrumental in recovering more than the amount that had been mulcted upon him. In such view of the matter, I am of the view that the impugned proceedings cannot be sustained.



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8. In fine, this Writ Petition is allowed and the impugned proceedings are quashed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

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Co-operative Societies,
B4/68, Nehruji Nagar 3rd Street,
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2. The Sale Officer,
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K.KUMARESH BABU, J.

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