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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.09.2025

CORAM

THE HON'BLE Ms.JUSTICE P.T.ASHA

W.P.(MD)No.19468 of 2015

and

M.P(MD)No.1 of 2015

A.Ganeshwari

...Petitioner

Vs

The Deputy Registrar of Co-Operative Societies,
Karur Circle, Having office at 149, Anna Nagar,
Thanthonimalai Post, Karur Town, Karur District.

...Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a **Writ of Certiorari** calling for the records pertaining to the impugned demand notice dated 19.08.2015, made in Ni.Ma.No.01/2015-2016, issued by the respondent and quash the same.

For Petitioner : Mr.P.R.Prithiviraj

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

* * * * *



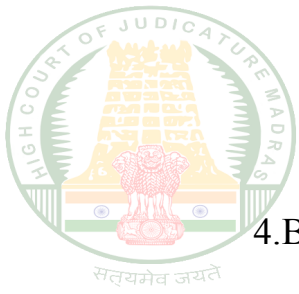
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ORDER

This Writ Petition has been filed seeking to quash the demand notice dated 19.08.2015 made in Ni.Ma.No.01/2015-16, issued by the respondent.

2.It is her grievance that her husband, namely, K.Annamalai, entered into service of the L.N.Samudram Primary Agricultural Co-operative Credit Society Limited on 16.02.1977 as a Clerk. He was subsequently promoted as an Accountant and finally promoted as a Secretary(in-charge) which post he hold only from November 2003 to 2012, when he had superannuated.

3.It appears that the respondent has ordered an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983, and appointed the Enquiry Officer to consider the charge that no recovery proceedings were initiated for long overdue loans. On 26.05.2008, the report was submitted by the Enquiry Officer and in the said report, he had detailed the omissions and commissions noticed by him while processing the loan application and sanctioning of the loan in respect of 36 members. Thereafter, surcharge proceedings were initiated against the petitioner's husband under Section 87 of the Act.



4. By an order dated 06.09.2010, the petitioner husband was directed to pay a sum of Rs.8,00,530/- together with interest at the rate of 15% per annum.

As against the same, the petitioner's husband has filed C.M.A.CS.No.1 of 2012, on the file of the Tribunal for Co-operative cases, Karur. The Tribunal dismissed the said appeal on 31.07.2014, thereby confirming the order passed by the respondent. Aggrieved by the same, the petitioner's husband filed W.P.No.4983 of 2015, and in the said Writ Petition, the petitioner had also sought for stay of all further proceedings which was granted to him.

5. Pending stay, the respondent has issued a demand notice, dated 06.09.2010, wherein they had directed the petitioner husband to pay the surcharge amount with interest within 10 days failing which, the property described therein would be attached and brought for sale. The property which is being described in the schedule to this notice exclusively belongs to the petitioner herein. The petitioner had also sent objection to the respondent. However, there is no response from the respondent therein. Therefore, the petitioner has come forward with the above writ petition.



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6.The petitioner has annexed the sale deed dated 19.12.2007, registered as document No.8205 of 2007, under which the petitioner herein had purchased the subject property. This very same property is sought to be attached under the impugned demand notice. Mere comparison of the property described in the schedule to the demand notice as well as the schedule to the sale deed dated 19.12.2007, will clearly confirm the same. Therefore, the respondent cannot mulct the liability of the husband upon the petitioner and proceed against the property which is admittedly not her husband's property.

7.Therefore, in the given circumstances, as narrated supra, this Writ Petition deserves to be allowed and accordingly it is allowed and the demand notice is hereby set aside. No costs. Consequently, connected Miscellaneous Petition is also closed.

02.09.2025

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



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To

The Deputy Registrar of Co-Operative Societies,
Karur Circle, Having office at 149,
Anna Nagar, Thanthonimalai Post,
Karur Town, Karur District.



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P.T.ASHA, J.

RJR

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