



W.P.(MD) No.11782 of 2016

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.11782 of 2016
and
W.M.P.(MD) Nos.9049 and 9050 of 2016**

M.Vijayarani

... Petitioner

/vs./

- 1.The Additional Director of Industries and Commerce/
Managing Director,
Tamilnadu Industrial Co-operative Bank,
Raja Annamalai Puram,
Chennai -28.
- 2.The Special Officer,
Tamilnadu Industrial Co-operative Bank Ltd,
Chennai represented through its Branch Manager,
No.254, Good Shed Street,
Madurai.
- 3.The Assistant Elementary Educational Officer,
Madurai South Circle,
Madurai 625 001.
- 4.The Secretary,
Nadar Vidhya Salai Middle School,



W.P.(MD) No.11782 of 2016

WEB COPY
South Gate,
Madurai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records in pursuant to the impugned notice issued by the 1st Respondent in L.No.192/2001 dated 28.04.2016 and quash the same.

For Petitioner : Mr.M.Saravanakumar

For R1 & R2 : Mr.R.Ramadurai

For R3 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

The writ petition had been filed challenging the notice of contempt issued by the first respondent invoking his powers under Rule 122 of the Tamil Nadu Co-operative Society Rules, 1988.

2. The learned counsel for the petitioner would submit that such notice had been issued by the first respondent on the premise that they have failed to give effect to the salary attachment order of the District Registrar of Industrial Co-operative Society/General Manager, District Industries Central, Madurai, which



W.P.(MD) No.11782 of 2016

WEB COPY

had caused loss to the second respondent Bank. He would submit that the order passed by the Industrial Co-operative Officer was set aside by the learned Principal District Judge, Madurai in the Civil Miscellaneous Appeal filed by the borrower and the sureties and the case was remitted back to the authority. The said order passed in the said Civil Miscellaneous Appeal was not taken note of and an order of attachment of the salary was made. However, the present order had been passed by invoking Rule 122 of the Tamil Nadu Co-operative Society Rules, 1988 and by issuing further direction to the fourth respondent to recover the money under the order of attachment. Hence, he would submit that the entire order impugned will have to be set aside.

3. Countering his arguments, Mr.R.Ramadurai, learned counsel for the respondents 1 and 2 would submit that the order of attachment had been passed against the petitioner and the said order of attachment had not been complied with by the authorities. Hence, he would submit that the first respondent had invoked the powers under Rule 122 of the Tamil Nadu Co-operative Society Rules, 1988, which cannot be faulted with. Hence, he would submit that no interference is required to be made in this writ petition.



W.P.(MD) No.11782 of 2016

WEB COPY

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

5. Admittedly, an award had been passed against the petitioner, which had also been set aside in the Civil Miscellaneous Appeal filed by the petitioner and others and the case was remitted back to the Arbitrator. It is the case of the petitioner that after the remand, no further proceedings had been initiated, but an order of attachment had been made based on the award, which had been set aside in appeal. When the award had been set aside in the appeal, there can be no question of attachment of salary and any such orders passed by the authority in the Execution Petition would be a non-est order, which cannot be executed.

6. In such event, I am of the view that the present order impugned before this Court is not only non-est but also in violation of orders passed in the said Civil Miscellaneous Appeal. For the aforesaid reasons, the Writ Petition stands allowed and the impugned notice issued by the first respondent in L.No.192/2001 dated 28.04.2016 is set aside.



W.P.(MD) No.11782 of 2016

WEB COPY

However, there shall be no order as to costs. Consequently, connected

Miscellaneous Petitions are closed.

Index : Yes / No

21.01.2025

Internet : Yes / No

mm

To

The Secretary,
Nadar Vidhya Salai Middle School,
South Gate,
Madurai.



WEB COPY



W.P.(MD) No.11782 of 2016

K.KUMARESH BABU, J.

mm

W.P.(MD) No.11782 of 2016

21.01.2025