



WP(MD) No.22812 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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RESERVED ON
27.11.2024

PRONOUNCED ON
06.01.2025

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD)Nos.22812 & 17846 of 2016
WMP.Nos.12874 & 16327 of 2016 & 1485 of 2023

Tmt.V.Geethalakshmi ... Petitioner in W.P.No.17846/2016

R.Pappathi Ammal ... Petitioner in W.P.No.22812/2016

1.The Deputy Registrar of Cooperative Societies,
Aruppukottai,
Virudhunagar District.

2.The Sub Registrar,
Veeracholan Sub Registrar Office,
Veeracholan – 626 612,
Virudhunagar District.

3.The President,
Sp.Spl.151, Pattamangalam Primary
Cooperative Credit Societies,
Ilupaiur, Virudhunagar District. ... Respondents in both W.Ps

PRAYER in W.P.No.22812 of 2016:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice to furnish the security in C.E.P.No.2821/2016/S.F.(1) dated 07.10.2016 and its consequential order



WP(MD) No.22812 of 2016

of attachment in C.E.P.No.2848/201/S.F.(1) dated 13.10.2016 on the file of the respondent No.1 and quash the same as illegal and consequently directing the respondent No.2 to release the attachment entries made in the petitioner's property in patta No.478, Survey No.210/13 an extent of 0.53.5 hectares in Athithanendal village, Veeracholan Sub-Registration District, Viruchunagar District within the time frame stipulated by this Court.

PRAYER in W.P.No.17846 of 2016:- Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned notice to furnish the security and its consequential order of attachment in C.E.P.No.2821/2016/S.F. Dated 22.08.2016 on the file of the respondent No.1 and quash the same as illegal and consequently directing the respondent No.2 to release the attachment entries made in the petitioners' property in T.Velangudi village in Survey No.262/2 an extent of 2.02.0 measuring 4 acres 99 cents, and in survey No. 262/3 an extent of 2.02.0 measuring 4 acres 99 cents and survey No.262/4 an extent of 1.94.0 measuring 4 acres 79 cents, Virudhunagar District within the time frame stipulated by this Court.

For Petitioner : Mr.S.Rajasekar in both W.Ps.,

For Respondents : Mr.J.K.Jeyaseelan G.A for RR1 & 2
in both W.Ps.

Mr.D.Shanmugaraja Sethupathi for R3
in both W.Ps.,



WP(MD) No.22812 of 2016

COMMON ORDER

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These Writ Petitions have been filed by the mother and wife of an ex-employee of the third respondent society, challenging the impugned order calling upon them to furnish security for the liability of ex-employee.

2. The learned counsel appearing for the petitioners would submit that the self acquired properties of the petitioners had been attached by the orders of the first respondent for the alleged dues by one Mr.R.S.R.Venkadachalam, who is the husband of the petitioner in W.P.No. 17846 of 2016 and son of the petitioner in W.P.No.22812 of 2016. He would submit that the petitioners have nothing to do with the allegations against Mr.Venkadachalam. Moreover, the properties, which have been self acquired by the petitioners, are sought to be attached. He would submit that the properties of rank-stranger cannot be attached in a proceedings under the Co-operative Societies Act and even for that, it should be proved that the properties have been purchased from and out of the proceeds of the alleged misappropriation. In support of his contentions, he had also relied upon a judgment of the Division Bench of this Court made in W.A.



WP(MD) No.22812 of 2016

(MD).No.1588 of 2018 and in the case of ***V.Sundaram vs. The Registrar***

Cooperative Societies reported in ***2009 SCC Online Madras 61***.

3. Countering his arguments, the learned counsel appearing on behalf of the first respondent would submit that serious allegations of misappropriation to the tune of Rs.2,66,11,781/- had been made against the husband of the petitioner and other employees and they were also found responsible for such misappropriation. Since it was found that the wife and mother of Mr.R.S.R.Venkadachalam, had owned properties and that the said person did not have sufficient properties, his legal heirs' properties were sought to be attached and they have also been called upon to furnish security for the said amount. Therefore, there was no error in the order of attachment of these properties. He would submit that while the said Mr.Venkadachalam was the Secretary of the third respondent society, he had not acted honestly and he had taken bogus jewel loans in an irregular manner with an intention to swindle the funds of the society, and only out of the said amounts, he purchased the properties in the petitioner's name. Therefore, it is for the petitioners to rebut that the properties were not purchased out of the funds of misappropriation.



WP(MD) No.22812 of 2016

4. The learned counsel appearing for the third respondent would further submits that the petitioner's husband had indulged himself in granting loans using forged signatures of the members between the period from 01.08.2016 and 10.08.2016. By using such forged signatures, the Secretary and various other persons had swindled the monies belonging to the third respondent society to the tune of Rs.2.66 crores. Therefore, the order impugned does not suffer from any infirmity.

5. I have considered the rival submissions made by the learned counsel appearing on either side and perused the materials placed on record.

6. The claim of the Writ Petitioner in W.P.No.17846 of 2016 is that she had purchased the property from and out of her own funds under the sale deeds dated 29.03.2012 and 10.03.2016. The case of the petitioner in W.P.(MD).No.22812 of 2016 is that the properties that are sought to be attached, had devolved upon her, being the ancestral property and that the same cannot be said to be a property purchased out of the funds of alleged misappropriation. From the statements given by the first respondent in its counter, it could be seen that a fraud had been committed by the employees



WP(MD) No.22812 of 2016

of the third respondent society between 01.08.2016 and 10.08.2016. Even though an allegation of misappropriation had been made during the year 2015, the same was only to the tune of Rs.10,000/-. For the entire balance amount of Rs.2,50,00,000/-, the period suggested seems to have been between 01.08.2016 and 10.08.2016. It is not disputed by the respondents that the properties were purchased by the petitioner in W.P.No.17846 of 2016 much prior to the alleged period of misappropriation. The sale deed produced by the petitioner therein also suggested that the petitioner had purchased the properties much before the period of delinquency.

7. Similarly, the property belonging to the Writ Petitioner in W.P.(MD)No.22812 of 2016, had devolved upon her being an ancestral property and the same is also not dislodged by the respondents.

8. Admittedly, these properties had vested with the petitioners much before the period of delinquency, which would only force me to come to a conclusion that the properties were not purchased from and out of the misappropriated amount. The Division Bench judgment of this Court in W.A.(MD).No.1588 of 2018 relied upon by the petitioner, squarely applies



WP(MD) No.22812 of 2016

to the facts and circumstances of the case.

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9. In such view of the matter, I have no hesitation in concluding that the order impugned herein is without any authority much less without any finding of fact that the said properties had been purchased from and out of the funds which had been misappropriated by the employee of the third respondent society.

10. In fine, the Writ Petitions are allowed and the impugned orders are set aside. Consequently, connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

06.01.2025

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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To



WP(MD) No.22812 of 2016

K.KUMARESH BABU.,J.

Pbn

- 1.The Deputy Registrar of Cooperative Societies,
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Virudhunagar District.
- 2.The Sub Registrar,
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Virudhunagar District.
- 3.The President,
Sp.Spl.151, Pattamangalam Primary
Cooperative Credit Societies,
Ilupaiur, Virudhunagar District.

A Pre-delivery order made in
W.P.(MD)Nos.22812 & 17846 of 2016
WMP.Nos.12874 & 16327 of 2016 & 1485 of 2023

06.01.2025