



W.P.(MD)No.33347 of 2025

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.12.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.33347 of 2025

and

W.M.P(MD)Nos.26321 and 26322 of 2025

T.Mani

... Petitioner

Vs.

1. The Deputy Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Lalgudi Circle,
Lalgudi,
Trichy District.
2. The Sub Registrar of Cooperative Societies,
Office of the Deputy Registrar of Cooperative Societies,
Lalgudi,
Trichy District.
3. M/s R 939 Thachankurichi Primary Agricultural
Cooperative Credit Society,
Rep., by its Secretary (In Charge),
Thachankurichi,
Lalgudi taluk,
Trichy District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of CERTIOARIFIED MANDAMUS calling for the records pertaining to the impugned proceedings issued by



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the 1st respondent vide CEP No.1/2022-2023, dated 23.10.2025 and CEP No.1/2022-2023, dated 31.10.2025 and quash the same as illegal and unconstitutional and consequently directing the respondents to raise the attachment order made in respect of the properties comprised in Survey Nos.223/30, 266/1, 266/7A, 353/1A, 353/6A, 356/2, 356/6, 356/7, 357/5, 364/8 and 134/31, situated at Puthur Uthamanur Revenue Village, Lalgudi Taluk, Trichy District within the time stipulated by this Honble Court.

For Petitioner : Mr.P.Mahendran

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

ORDER

The writ petition has been filed seeking to quash the order of attachment passed by the 1st respondent vide proceedings dated 23.10.2025 with regard to 11 items of the property.

2. The petitioner's son namely M.Deivaraj was working as a President of the 3rd respondent society for a period between 01.04.2019 and 31.12.2019.



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3. In view of the allegations as against him proceedings were initiated under Section 81 and 87 of the Tamil Nadu Cooperative Societies Act. Surcharge order came to be passed on 22.02.2021 which has not been challenged by the said Deivaraj.

4. Pursuant to his surcharge orders, the present impugned attachment order has been passed by the 1st respondent herein with regard to 11 items of the property.

5. According to the learned counsel appearing for the writ petitioner the properties which are attached under the impugned order have been purchased by him vide registered Document Nos.353/6A and 590/77 dated 16.05.1997 and Document No.427/1983 dated 07.04.1983 on the file of the Sub Registrar Office, Lalgudi. No proceedings were initiated as against the writ petitioner either under Section 81, 87 or 90 Tamil Nadu Co-operative Societies Act.



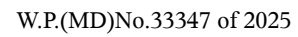
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6. The learned counsel appearing for the writ petitioner relied upon the decision of this Court reported in the case of ***S.Rathinam vs. The Deputy Registrar of Co-operative Societies***, reported in 2016 SCC OnLine Mad 9775 which is confirmed by the Hon'ble Division Bench of this Court in W.A(MD)No.1511 of 2018 dated 11.12.2025.

7. Per contra, the learned Special Government Pleader appearing for the respondents submit that 11 items have been attached under the impugned order. However, documents have been produced only to 3 items viz., S.No.1,4 and 5. For the rest of the items, there are no records whatsoever and therefore, they have to be presumed to have been purchased by the delinquent namely Deivaraj out of the misappropriation of funds.

8. She further submitted that the petitioner is having an effective alternate remedy of approaching the concerned authority under Rule 135 of the Tamil Nadu Cooperative Societies Rules.



10. The records produced on the side of the petitioner would clearly reveal that the petitioner who is the father of the delinquent had purchased 3 items namely S.Nos.353/1A, 353/6A and 223/30 under two registered sale deed dated 16.05.1977 and 07.04.1983.

11. These three survey numbers are shown as S.No.1, 4 and 5 in the scheduled annexed to the impugned order of attachment. However, the petitioner has not been able to produce any records with regard to the other items.



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12. This Court in the Judgment reported in 2016 SCC OnLine

Madras 9775 in paragraph 6 held as follows:-

“6. This Court had an occasion to deal with Section 167 of Tamil Nadu Co-operative Societies Act (hereinafter, it may be referred to as 'the Act') and Rules 135 and 140 of Tamil Nadu Cooperative Societies Rules (hereinafter, it may be referred to as 'the Rules') In W.P.(MD) No. 3836 of 2009 and found that attachment of the property can be made by the Registrar of Co-operative Societies only in certain circumstances, Attachment can be made pursuant to the action taken under Section 90 of the Act as per the orders of the Liquidator under Sections 138 and 139. The provisions of the Act clearly says that recovery can be made firstly from the properties of the registered society, secondly in the case of a society the liability of the members of which is limited from the members, past members or the nominees of the deceased members subject to the limit of their liability and thirdly, in the case of other societies from the members, past members or the nominees of the deceased members. The entire scheme of the Act deals with only in respect of settlement of dispute between the members, past members or nominees of the deceased members or borrowers or against whom decree is passed in accordance with law under surcharge proceedings by the Co-operative Society or the Registrar are liable for attachment. Therefore, the attachment in respect of the properties belonging to the third parties has not been provided in the Act or in the Rules. A reading of the concerned statutory provisions of the Act and Rules do not reveal action to be taken against the third parties or attachment of the properties belonging to them. Therefore, the arguments of the writ petitioner that the petitioner is neither a member nor a borrower of the Bank has much force. The action of the respondent insofar as the attachment of the property of the third party is concerned, it is without jurisdiction and therefore, the attachment of the petitioner's property is liable to be set aside.”



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13. The said judgement was put to challenge by the Cooperative Society before the Hon'ble Division Bench in W.A.(MD).No1511 of 2018.

The Hon'ble Division Bench in its order dated 11.12.2018 has dismissed the writ appeal. Paragraph 9 of the order of the Hon'ble Division Bench is extracted as follows:-

“9. So long as the provision of Co-operative Societies Act or Rules framed therein do not contemplate a statutory fiction or presumption in favour of the society to proceed against the property of a stranger, this Court is of the view that the order impugned in the Writ Petition cannot be sustained. However, it is open to the Registrar or the person authorised by him acting under Section 87 of the Act to initiate action to proceed against the property in accordance with law after establishing the fact the property of a close relative of the delinquent was in fact the property purchased out of money provided by the delinquent. In that view of the matter, we do not find any reason to interfere with the order passed by the learned Single Judge of this Court, allowing the writ petition.”

14. In view of the above said deliberations, the order of attachment impugned in the writ petition is set aside only with regard to S.Nos.353/1A, 353/6A and 223/30 .



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15. It is made clear that with regard to the two other survey numbers, the petitioner has to approach the concerned authority under Rule 135 of the Tamil Nadu Cooperative Societies to establish his rights.

16. In view of the above said facts, the writ petition is partly allowed to the extent as stated above. No costs. Consequently, connected miscellaneous petitions are closed.

10.12.2025
(2/2)

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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