



WEB COPY

WP No. 17205 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11-02-2026

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THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

WP No.17205 of 2018

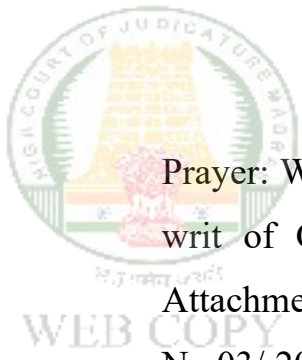
1. N.Ganesan
2. M.Chithra

..Petitioner(s)

Vs

1. The Assistant Director,
Handloom and Textiles Office, Bhavani Main
Road, Asokapuram, Erode.
2. The Sale Officer cum Handloom
Inspector, O/o.The Assistant Director,
Handloom and Textiles Office, Bhavani Main
Road, Asokapuram, Erode
3. The President, EH.205,
Chennimalai Power Loom Weavers
Cooperative, Production and Sale Society Ltd.,
Chennimalai, Perundurai Taluk, Erode District
4. N.Senthil Kumar

..Respondent(s)



Prayer: Writ Petition is filed under Article 227 of the Constitution of India for a writ of Certiorarified Mandamus calling for the records of the Impugned Attachment order issued by the 1st respondent vide his proceedings in CEP No.03/ 2017-18, RC. No. 7434/ 2017/F dated 12.6.2017 and consequential Sale cum Auction Paper Publication Notice issued by the 2nd respondent by dated 8.6.2018 and quash the same as illegal and unconstitutional

For Petitioner(s): Mr.S.Venkat

For Respondent(s): Mr.K.Tamilvendan, Government Advocate

Order

The petitioners are the children of one A.Nachimuthu. The 4th respondent is the sibling of the petitioners. He was working as a Manager / Secretary in the 3rd respondent Society. During the course of his employment, he is alleged to have caused a loss to the 3rd respondent to the tune of Rs.5,32,19,693.80/- (Rupees Five Crores Thirty Two Lakhs Nineteen Thousand Six Hundred and Ninety Three and Eighty paise only). The Society initiated action against the writ petitioners' brother. They also lodged a complaint before the jurisdictional Police, which was taken on file as Crime.No.1/2018 under Section 408 of the Indian Penal Code.

2. The cause of action for the present writ petition is that the property, which was purchased by the petitioners' father, Late.A.Nachimuthu, has been attached in its entirety. The petitioners' father had purchased the property on 04.02.1997. He went to meet his maker on 11.08.2004. At the time of his death,



he left behind his wife, the writ petitioners and the 4th respondent as his legal heirs. Mr.A.Nachimuthu's wife passed away on 20.07.2015. Therefore, on her death, each of the petitioners and the 4th respondent became entitled to 1/3rd share by virtue of the operation of Section 8 of the Hindu Succession Act. As the petitioners' shares are also attached, they are before this Court by way of this writ petition.

3. This Court entertained the writ petition and called upon the respondents to file a counter affidavit. The respondents 1 and 2 had filed a common counter affidavit. 3rd respondent has filed a separate counter affidavit. The averments are common in both the counter affidavits.

4. The gist of the counter is that the petitioners have an alternate remedy under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988 and a further provision to appeal before the Cooperative Tribunal under Section 152 of the Tamil Nadu Cooperative Societies Act, 1983. It is stated that proceedings were initiated under Section 90 of the TNCS Act in Suit No.01/2017-2018, against the 4th respondent. Pending the said proceedings, the properties were attached under Rule 167 of the TNCS Rules. The proceedings initiated under Section 90 ended in an award on 11.02.2017. It held that Mr.N.Senthil Kumar is liable to pay a sum of Rs.5,32,19,693.80/- together with interest at the rate of 12% per annum. The counter states that Mr.N.Senthil Kumar had tendered "no



objection” for the sale of the attached assets. It also points out that the jewellery belonging to Mr.N.Senthil Kumar and his wife have also been attached. The Counter states that Mr.N.Senthil Kumar’s wife had challenged the attachment proceedings in W.P.No.16406 and 16407 of 2018 and the same were dismissed. A faint plea has been raised that A.Nachimuthu is not the owner of the property but Senthilkumar had purchased the property in the name of his father in the year 1997.

5. I heard Mr.S.Venkat, learned counsel for the petitioner and Mr.K.Tamilvendan, learned Government Advocate for the respondents.

6. The narration of the facts shows that the property belongs to one A.Nachimuthu. Of the three children, the 4th respondent, Mr.N.Senthil Kumar has suffered an award under Section 90. The properties belonging to A.Nachimuthu have been attached by the respondents for the dues which had to be paid by Mr.N.Senthil Kumar. On the death of A.Nachimuthu, the property statutorily devolves on his legal heirs, namely, his wife, the writ petitioners and the 4th respondent.

7. It is not the case of the respondents that the petitioners are either members of the Society or have suffered an award in Award No.1/2017-2018.



When the petitioners are neither members of the 4th respondent Society nor parties to the Section 90 proceedings, to attach their shares is excessive use of the powers conferred upon the respondent Society. If at all any one is answerable to the claim, it is the 4th respondent Mr.Senthil Kumar.

8. Though the petitioners seek for the entire attachment to be quashed, I am not inclined to entertain the said plea. The Impugned attachment is valid insofar, as it relates to the 1/3rd share of the Mr.N.Senthil Kumar. It shall stand raised insofar as the 2/3rd share of the writ petitioners are concerned. In case of the sale of the property, the auction purchaser, who will get 1/3rd share of the Mr.N.Senthil Kumar, would have to workout his right by filing a separate suit for partition.

8. With the above observation, the writ petition has been partly allowed.

No costs.

11-02-2026

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

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To

1. The Assistant Director,
Handloom and Textiles Office, Bhavani Main
Road, Asokapuram, Erode.
2. The Sale Officer cum Handloom
Inspector, O/o.The Assistant Director,
Handloom and Textiles Office, Bhavani Main
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