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Writ Petition(MD)No.3769 of 2026

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

Writ Petition(MD)No.3769 of 2026

and

W.M.P(MD)No.3075 of 2026

N.Dhashnamoorthy

.. Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies,
O/o The Deputy Registrar of Cooperative Societies,
Tenkasi Circle,
Tenkasi.

2.The Administrator,
O.1640, Nagalkulam Primary Agricultural
Cooperative Credit Society,
Arunaperi,
Alangulam Taluk,
Tenkasi District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records relating to the impugned notice vide நீ.ம.எண்.1/2026-27 (நீ.க.எண்.96/2026 சப) நாள் : 22.01.2026 issued by the first respondent and quash the same.



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For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : M/s P.B.Ahamed Yashmin Parvin
Government Advocate

ORDER

The petitioner challenges the notice dated 22.01.2026 bearing நி.ம.எண். 1/2026-27 (ந.க.எண்.96/2026 சப) நாள் : 22.01.2026. By the said notice, the immovable properties belonging to the petitioner have been attached pending an enquiry under Section 81 of the Tamil Nadu Cooperative Societies Act.

2. The petitioner, upon attaining the age of superannuation, was permitted to retire from service. However, the terminal benefits due to the petitioner were not disbursed, which constrained the petitioner to approach this Court by filing W.P.(MD) No.29606 of 2025. This Court, by order dated 19.11.2025, directed the second respondent to release the petitioner's retirement benefits. In the meanwhile, pending the enquiry under Section 81 of the Act, the impugned notice of attachment has been issued.

3. Heard the learned counsel appearing on either side.

4. A similar issue as to whether the immovable property belonging to an employee of a society can be attached before judgment under Section 167 of the Act was considered by a Coordinate Bench of this Court in W.P. No.



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19173 of 2008. This Court, in paragraph 6 of the said order, held that a plain reading of Section 167 of the Tamil Nadu Cooperative Societies Act makes it clear that an order of attachment before judgment under Section 167(1) of the Act or conditional attachment under Section 167(2) of the Act can be made only in cases where proceedings are already pending on the file of the Deputy Registrar under Section 87, Section 90, Section 130, or Section 139 of the Act. In the present case, no proceedings are pending under any of the aforesaid provisions. What is pending against the petitioner is only an enquiry under Section 81 of the Act. There is no provision under the Act enabling attachment of immovable property before judgment during the pendency of an enquiry under Section 81.

5. The learned Government Advocate appearing for the respondents relied upon a circular dated 12.08.2024 to substantiate the contention that an order of attachment before judgment can be made even during the pendency of an enquiry under Section 81 of the Act. However, the said circular has been issued contrary to the provisions of Section 167 of the Act. When the statute specifically provides for attachment before judgment only in respect of proceedings pending under the provisions enumerated therein, and in the absence of any statutory source of power enabling such attachment during an enquiry under Section 81, the circular cannot override the statutory provision and therefore cannot be given effect to.



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6. In light of the above discussion, this Court is of the considered view that the impugned notice issued by the first respondent lacks statutory authority and is liable to be set aside.

7. Accordingly, this Writ Petition is allowed and the impugned notice dated 22.01.2026 bearing நி.ம.எண்.1/2026-27 (ந.க.எண்.96/2026 சப) நாள் : 22.01.2026 issued by the first respondent is set aside. No costs. Consequently, the connected miscellaneous petition is closed.

03.03.2026

NCC : Yes/No

Index : Yes/No

Internet:Yes

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To

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HEMANT CHANDANGOUDAR, J.

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