



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2026

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CORAM:

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.1304 of 2026

Mrs.T.Palaniyammal

... Petitioner

Vs.

1. The Deputy Registrar Of CO-Operative Societies,
Tirukoilur, Kallakurichi District.

2.The Deputy Registrar of Co- Operative Societies,
Kallakurichi, Kallakurichi District.

3.The President
II.620, Nainarpalayam Primary Agricultural
Co-Operative Loan Society,
Nainarpalayam, Chinnasalem Taluk,
Kallakurichi District.

4.The Sub Registrar of Registration
Sirupakkam Sub Registrar Office,
Sirupakkam Cuddalore District- 606 123.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for, to issue a Writ of Mandamus directing the respondents 1 to 3 to execute a deed of Release of Attachment for cancelling the entry of Attachment made under Document No.11/ 2014 dated 31.12.2014 in regard to the property as described in Form Nos.8 and 9 dated 17.08.2022 in Auction Sale Notice before the 4th Respondent and consequently direct the 4th Respondent to delete the entries of attachment made in the Encumbrance Register under document No.11/ 2014 forthwith and to issue a fresh encumbrance certificate unfolding nil encumbrance in regard to the aforesaid property to the petitioner forthwith.

For Petitioners : Mr.R.Natarajan

For Respondents : Mr.R.Murthi,
Government Advocate, for RR 1 to 3

Mr.Stalin Abimanyu,
Additional Government Pleader, for R4

ORDER

The petitioner is the wife of one Thangavel. The said Thangavel was an employee with the third respondent Society. During the course of his employment, an inquiry was ordered under Section 81 of the Tamil Nadu Cooperative Societies Act, 1983. Consequent to the said inquiry, Surcharge proceedings were initiated under Section 87 of the Tamil Nadu Cooperative



Societies Act, 1983. A surcharge order was passed against the said Thangavel on 12.04.2014, holding him responsible to pay a sum of Rs.22,56,119/-.

2. Aggrieved by the said surcharge order, Mr.Thangavel preferred an Appeal before the Cooperative Tribunal cum Principal District Judge, Villupuram. This Appeal was received in Cooperative CMA 9 of 2015. After hearing both sides, the Cooperative Tribunal cum Principal District Judge passed an order holding that Mr.Thangavel is responsible only to an extent of Rs.5,61,714/-. Having come to this conclusion, the learned Judge allowed the Appeal in part, modifying the surcharge order dated 12.04.2014.

3. In the meantime, the property belonging to the petitioner was attached. It is the case of the petitioner that she acquired the property by way of a registered Exchange Deed dated 22.09.2009 in Document No.1333 of 2009, on the file of the Sub-Registrar, Sirupakkam. The petitioner claims, she has put up a residential structure over the land and has been continuously residing therein. Pursuant to the order of attachment, the respondents attempted to bring the property for sale under distraint proceedings dated 17.08.2022. Consequently the petitioner moved a Writ

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Petition in WP No.26046 of 2022. This Court permitted the auction to go on, but directed that the confirmation of sale to be deferred. In order to purchase peace, the petitioner paid the entire amount due under the surcharge order, together with interest at the rate of 17.5 % per annum. In all, the petitioner deposited a sum of Rs.19,07,470/-.

4. After the payment, the petitioner's brother-in-law, (her husband Thangavel's brother) one, Duraisamy challenged the attachment proceedings that had been initiated with respect to the undivided family property. This was in WP No.26325 of 2022. When that Writ Petition was taken up for disposal, the learned Government Advocate appearing for the Deputy Registrar of Co-operative Societies and the third respondent Society, represented before the Hon'ble Judge that the petitioner herein had paid the entire sum of Rs.19,07,470/-. Recording the same, this Court allowed the Writ Petition, quashing the attachment of the assets of the joint family.

5. The cause of action of the present Writ Petition is that, though the petitioner has paid the entire dues demanded by the Society, on behalf of her husband, the attachment of her property continues. Hence, she has come forward with the present Writ Petition seeking for cancellation of the

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attachment made by respondents 1, 2 and 3 on 17.08.2022. She has further sought for a direction to the Sub Registrar to delete the entries relating to the attachment.

6. I heard Mr.R.Natarajan, learned counsel appearing for the Writ Petitioner, Mr.R.Murthi, learned Government Advocate appearing for the respondents 1 to 3 and Mr.Stalin Abimanyu, learned Additional Government Pleader appearing for the fourth respondent.

7. Admittedly, the petitioner has discharged the liability to the last paisa, which her husband owed to the third respondent society. Attachment itself had been made only as a measure to ensure that the amount comes back to the coffers of the third respondent. When the petitioner has paid the entire amount under surcharge together with interest on 28.09.2022, continuing the attachment thereafter amounts to unlawful interference with the right to property of the petitioner. A judgment creditor is entitled to the benefit of an attachment and the consequential sale, so long as whatever is due to him or her remains unpaid. Once the amounts are paid, it is the duty of the respondents to ensure that the attachment made, pending receipt of the amounts is raised forthwith.



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8. The factum that the entire amount was paid by the petitioner has been admitted by the respondents 2 and 3 herein in WP No.26325 of 2022.

It is on the basis of their statement that this Court had quashed the attachment proceedings in the Writ Petition filed by the petitioner's brother-in-law. It is unfortunate that the petitioner's brother-in-law has derived the benefit of the payment made by the petitioner, while the same has been denied to the petitioner.

9. Mr.R.Murthi urged that the petitioner would also have to pay the amount that is owed by one Mr.Ravichandran, who was a co-delinquent along with Mr.Thangavel the petitioner's husband. This argument does not lie in the mouth of the respondents 2 and 3 herein, because, the Cooperative Tribunal cum Principal District Judge has specifically rendered a finding in paragraph no.8 of the order in CMA No.9 of 2015 dated 12.09.2019, that the petitioner's husband is liable only to an extent of Rs.5,61,714/-. Mr.R.Murthi is not in a position to bring forth before this Court any challenge that has been made to the order passed by the learned Cooperative Tribunal cum Principal District Judge



10. In the light of the above discussion the Writ Petition succeeds.

There shall be a direction to the respondents 2 and 3 to forthwith raise the attachment of the property belonging to the petitioner in Survey No.291/1 admeasuring an extent of 1320 sq. feet, Nainarpalayam Village, Chinnasalem Taluk, Kallakurichi District. The respondent Nos.2 and 3 shall communicate the raising of the attachment to the fourth respondent, who shall, within a week from the communication of the said order, record in the encumbrance certificate that the attachment has been raised. The respondents Nos.2 and 3 shall pass the order within one week from today, the consequential proceedings by the fourth respondent shall be within one week thereafter.

11. The Writ Petition is allowed with the above directions. There shall be no order as to costs.

12. Call on for compliance after three weeks

02.02.2026

jv

Internet : Yes

Neutral Citation : Yes/No

Speaking order/Non Speaking order

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To

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Tirukoilur, Kallakurichi District.

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Sirupakkam Sub Registrar Office,
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V. LAKSHMINARAYANAN, J.

jv

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