

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Thursday, the Twenty Seventh day of October Two Thousand and
Twenty Two

WEB COPY

PRESENT

The Hon`ble Mrs.Justice V.BHAVANI SUBBAROYAN

WP(MD) No.24437 of 2022

AND

WMP(MD) No.18527 of 2022

S.S.N.VIJAYAN

... PETITIONER

Vs

1 THE DISTRICT REGISTRAR
CO-OPERATIVE SOCIETIES, TENKASI DISTRICT.

2 THE DEPUTY REGISTRAR
CO-OPERATIVE SOCIETIES,
MUDUKKU VINAYAKAR KOVIL STREET,
(TEMPLE TOWER, III FLOOR),
TENKASI DISTRICT.

3 THE SECRETARY
0.1902 ALANGULAM
PRIMARY AGRICULTURAL CO-OPERATIVE SOCIETY,
ALANGULAM, TENKASI.

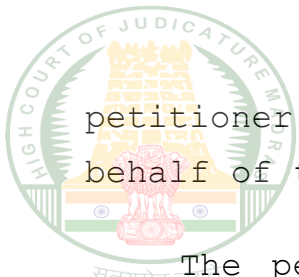
... RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction in the nature of writ calling for the record pertaining to Ne.Ma.No.5/2018-19 dated 07.10.2022 passed by the 1st respondent and quash the same as illegal and void.

Prayer in WMP(MD) . 18527/ 2022 :

To stay the further proceedings in the impugned order dated 07.10.2022 vide, Ne.Ma.No.5/2018-19 issued by the 1st respondent till the disposal of the above Writ Petition.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.SELVAM.D, Advocate for the



petitioner and of Mr.M.SENTHIL AYYANAR, Government Advocate on behalf of the Respondents the court made the following order:-

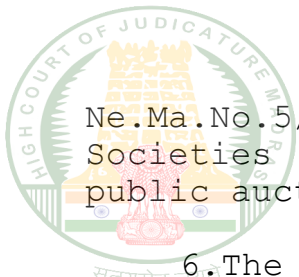
The petitioner has filed this Writ Petition seeking to quash auction notice dated 07.10.2022, issued by the first respondent.

2.Mr.M.Senthil Ayyanar, learned Government Advocate takes notice for the respondents.

3.According to the petitioner, he is a Primary Member of 0.1902 Alangulam Primary Agricultural Co-operative Credit Society, Alangulam, Tenkasi, and obtained few loans and the same were closed in the year 2006. At the time of processing of the loan, the petitioner submitted his property document as a security deposit. By using the said document, the third respondent misused the petitioner's profile details and processed Cash Credit Loan without his knowledge. Subsequently, the petitioner and other delinquents were issued with notice under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 [hereinafter referred to as 'the Act'].

4.Further, according to the petitioner, based on the enquiry report, dated 09.03.2018, a show cause notice dated 21.05.2018, was issued against him under Section 87 of the Act, alleging that he along with the President, Secretary, Board of Directors and other Members of the Co-operative Credit Societies, caused a huge loss of Rs.47,82,544/- to the third respondent Society. Based on the said show cause notice, surcharge proceedings were initiated against the then Secretary and some of the Members of the Society. Thereafter, on the basis of the enquiry report, the second respondent issued show cause notices dated 21.11.2019, directing the petitioner and others to pay jointly and severally a sum of Rs.2,82,544/-, Rs.35,00,000/- and Rs.10,00,000/- to the third respondent Society along with 15 % interest. While so, the second respondent issued a Form-6 notice dated 12.02.2021, under Rule 126(2)(b)(1) of the Tamil Nadu Co-operative Societies Rules, 1988, directing the petitioner to pay a sum of Rs.47,82,544/- within ten days. Challenging the same, the petitioner preferred an appeal in CMA(CS)No.6 of 2021 before the Principal District Court (Special Court for Co-operative Tribunal Cases), Tirunelveli and an order of interim stay was granted on 01.09.2021. Unfortunately, due to his medical illness, the petitioner was unable to contact his counsel when the matter was called on 03.08.2022 and therefore, the said appeal was dismissed for default. Thereafter, on 10.08.2022, the petitioner filed a restoration petition and notice was ordered to the respondents.

5.According to the petitioner, he filed an appeal along with a condone delay petition in the month of September, 2022 against the surcharge proceedings in S.C.No.1/2018-2019, dated 20.11.2019. While the appeal was pending, the first respondent issued an auction sale notice in



Ne.Ma.No.5/2018-2019 under Rule 126 of the Tamil Nadu Co-operative Societies Rules, 1988 and brought the petitioner's property for public auction on 10.11.2022.

6.The learned counsel appearing for the petitioner submitted that in order to show his bona fide, the petitioner is willing to pay a sum of Rs.25,00,000/- to the third respondent Society on or before 02.12.2022 and prayed for an order of interim protection.

7.Considering the above said submission made by the learned counsel appearing for the petitioner, this Court is inclined to grant an order of interim stay. Accordingly, there shall be an order of interim stay till 02.12.2022 on condition that the petitioner shall pay a sum of Rs.25,00,000/- [Rupees Twenty Five Lakhs only] to the third respondent Society on or before 02.12.2022, failing which, the interim stay granted shall stand vacated automatically without further reference to this Court.

Post the matter on **05.12.2022**.

sd/-

27/10/2022

/ TRUE COPY /

/10/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE DISTRICT REGISTRAR
CO-OPERATIVE SOCIETIES, TENKASI DISTRICT.

2 THE DEPUTY REGISTRAR
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3 THE SECRETARY
0.1902 ALANGULAM
PRIMARY AGRICULTURAL CO-OPERATIVE SOCIETY,
ALANGULAM, TENKASI.

+1. C.C. to M/S. SELVAM D Advocate SR.No.51780 (F)
Date:31/10/2022.

ORDER IN

WP(MD) No.24437 of 2022

AND

WMP(MD) No.18527 of 2022

Date :27/10/2022

smn2

SA/SBN/SAR.1/31.10.2022/3P/5C

<https://www.mhc.tn.gov.in/judis>