

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19778 of 2015

K.Anandan

.. Petitioner

-vs-

1. The Deputy Registrar of Co-op.Societies (Housing)
Gandhi Nagar, Katpadi
Vellore
2. The Sale Officer
Ambur Co-operative Building Society Ltd.,
Kottai Bungalow
Umar Road, Ambur
3. The Secretary
Ambur Co-operative Building Society Ltd.,
Kottai Bungalow
Umar Road, Ambur
Vellore District

... Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records relating to the proceedings C.E.P.No.516/02-03 - A.R.C.No.1513/01-02 dated 11.06.2015 passed by the first respondent and quash the same.

For Petitioner :: Ms.T.Dharani

For Respondents :: Ms.T.P.Savita
Government Advocate

ORDER

This writ petition is directed against the impugned auction sale notice dated 11.6.2015 issued by the Deputy Registrar of Co-operative Societies (Housing), Vellore, the first respondent herein for the outstanding loan dues of Rs.12,85,066/- from the petitioner.

2. When the matter was taken up, the learned counsel for the petitioner, placing on record the statement of installment for the outstanding amount of Rs.12,85,066/- dated 7.7.2015, submitted that the petitioner is willing to clear the entire outstanding amount in eight installments and to show the bona fides, the petitioner will

pay the first installment of Rs.2,00,066/- on or before 14.7.2015 and the balance amount in three quarterly rests and in four bi-monthly rests, i.e., a sum of Rs.2,17,000/- for each quarter and a sum of Rs.1,08,500/- bi-monthly, respectively.

3. Per contra, the learned Government Advocate appearing for the respondents, placing reliance on the counter affidavit, submitted that the petitioner being a defaulter, since he had availed the loan of Rs.1,50,000/- in the year 1999, no indulgence can be shown by this Court. She also submitted that even after the ex parte award of the Arbitrator in A.R.C.No.1513/01-02 dated 22.6.2002, the petitioner did not settle the outstanding dues, as a result, the third respondent society was constrained to file an execution petition in C.E.P.No.516/02-03 in A.R.C.No.1513/01-02 before the first respondent for bringing the property of the petitioner for public auction on 20.2.2003, 29.10.2003, 29.07.2004, 24.11.2004, 30.04.2005, 19.08.2005, 19.01.2006, 22.07.2006, 26.03.2007 and 05.07.2007. Whenever the public auction was conducted, the petitioner, except making a meagre payment, only sought time to repay the dues. Adding further, the learned Government Advocate submitted that when the public auction notice dated 21.5.2007 was issued by the first respondent directing the petitioner to pay a sum of Rs.4,24,879/-, the petitioner challenged the said notice before this Court in W.P.No.22456 of 2007 and this Court granted interim stay subject to the petitioner paying a sum of Rs.1,00,000/-. However, as the petitioner did not comply with the conditional order, the said writ petition was dismissed by this Court vide order dated 29.10.2008. Thereafter, the petitioner again challenged the notice dated 18.12.2009 before this Court in W.P.No.594 of 2010, but the said writ petition was dismissed as withdrawn by order dated 19.1.2010. Even after the dismissal of the writ petitions and even after the grant of so many opportunities, the petitioner has failed to settle the loan dues of Rs.12,85,066/-, therefore, no interference is called for with the impugned auction sale notice.

4. Be that as it may, considering the fact that the petitioner is willing to clear the entire outstanding amount of Rs.12,85,066/- in eight installments and has also agreed to pay the first installment of Rs.2,00,066/- on or before 14.7.2015 and the balance amount in three quarterly rests and in four bi-monthly rests, i.e., a sum of Rs.2,17,000/- for each quarter and a sum of Rs.1,08,500/- bi-monthly respectively, as per the statement dated 7.7.2015 and also taking into account that the petitioner had repaid a sum of Rs.2,37,963/- as per the memo of calculation filed by the third respondent, this Court is inclined to grant one more opportunity to the petitioner to clear the entire outstanding dues. Accordingly, subject to the payment of Rs.2,00,066/- by the petitioner on or before 14.7.2015, the impugned auction notice shall be kept in abeyance by the respondents. The petitioner is further directed to settle the balance amount in installments as detailed below:-

- (i) a sum of Rs.2,17,000/- on or before 14.10.2015;
- (ii) a sum of Rs.2,17,000/- on or before 14.01.2016;
- (iii) a sum of Rs.2,17,000/- on or before 14.04.2016;
- (iv) a sum of Rs.1,08,500/- on or before 14.06.2016;
- (v) a sum of Rs.1,08,500/- on or before 14.08.2016;
- (vi) a sum of Rs.1,08,500/- on or before 14.10.2016;
- (vii) a sum of Rs.1,08,500/- on or before 14.12.2016.

It is made clear that if the petitioner commits any default in any one of the aforesaid installments as directed in this order, without any further notice to the petitioner, the impugned auction notice would automatically stand revived and the respondents are entitled to proceed further. If the petitioner is entitled to the benefit of waiver of any penal interest, the same may be considered. With this observation, the writ petition stands disposed of. Consequently, M.P.Nos.1 & 2 of 2015 are closed. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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To

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Vellore District.

1 cc to Ms.T.Dharani , Advocate Sr.No.34688
1 cc to Ms.T.P.Savita , Advocate Sr.No.34978

W.P.No.19778 of 2015

ggr(co)
pmk.10.7.2015