

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 02.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.20387 of 2015 &
M.P.No.1 of 2015

P.Anjalai

[PETITIONER]

Vs

- 1 The Registrar of the District (Housing)
Salem Region, Salem.
- 2 The Deputy Registrar
Office of the Deputy Registrar of
Co-operatives (Housing Loan)
Old Post Office Building
Gandhi Nagar, Attur-636 102, Salem.
- 3 The Secretary
Attur Taluk Co-operative Housing Society Ltd.
No.SLM HSG 66 No.88C, Ramasamy Udayar Complex
Vinayagapuram, Attur-636 102, Salem.

RESPONDENTS

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of Certiorari to call for the records relating to the impugned Auction Sale Notice vide Ni.Ma. No.164/23 and Tha.Va. No.775/99-00 by the 1st respondent dated 3.6.2015 bringing property for public Auction which is scheduled to be held on 10.7.2015 at 11.00 a.m. to quash the same.

For Petitioner : Mr.Ravichandran Sundaresan

For Respondents : Mr.R.Bala Ramesh
Addl.Government Pleader

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.Heard Mr.Ravichandran Sundaresan, learned counsel appearing for the petitioner and Mr.R.Bala Ramesh, learned Additional Government Pleader appearing for respondents

3.The petitioner has filed this Writ Petition for issuance of a writ of certiorari to quash the Auction Sale Notice issued by the respondent Society, bringing the petitioner's property for public auction and the auction was scheduled to be held on 10.07.07.2015.

4.The fact that the Housing Loan was availed by the petitioner in 1995 is not disputed. In the affidavit filed in support of the Writ Petition, the petitioner would state that the the loan was availed by the petitioner's mother and she died leaving the petitioner and her brother as legal heirs and according to the petitioner, her brother has also remitted certain amounts, but he was not issued with any notice in this regard. On this ground, the petitioner challenged the impugned auction notice.

5.At the time when the Writ Petition was entertained, this Court granted an order of interim stay on 09.07.2015, subject to the condition that the petitioner deposit a sum of Rs.50,000/-, within a period of fifteen days from the date of the order. However, the petitioner did not comply with the order and that was noted by this Court in its order dated 06.08.2015, from which it is seen that the petitioner has paid only a sum of Rs.15,000/-. Subsequently, the matter was adjourned on two occasions and the learned Government Pleader was directed to verify as to whether any Government Order is available which would enable the respondent Society to waive the penal interest. The learned Government Pleader submits that the loan being a Housing Loan availed in 1995, there are no Government Orders for waiving penal interest. Further, it is seen that the amounts due and payable have been intimated to the petitioner vide notice dated 07.08.2012. Therefore, it is not the case that no opportunity was given to the petitioner.

6.However, considering the fact that the petitioner is a agricultural worker, the loan availed in 1995 was only Rs.28,000/- and she has also remitted a sum of Rs.15,000/-, this Court is of the view that one more opportunity should be granted to the petitioner to clear the arrears in a phased manner.

7.To avail such benefit, the petitioner should first deposit a sum of Rs.50,000/- within a period of eight weeks from the date of receipt of a copy of this order. On such deposit, the respondent Society may consider re-scheduling the loan and issue fresh demand to the petitioner, which she shall comply

with. However, if the petitioner fails to remit a sum of Rs.50,000/-, which is in addition to the amount of Rs.15,000/- already remitted, the Writ Petition shall stand automatically dismissed without further reference to this Court and the respondent Society may be entitled to bring the property for auction sale.

The Writ Petition is disposed of on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

rpa
To

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+1 cc to Mr.Ravichandran Sundaresan Advocate sr.59824
+1 cc to Government Pleader sr.60122

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