

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.21104 of 2015

A.N.Balu

...Petitioner

-VS-

1. Registrar of the District (Housing)
O/o Deputy Registrar of Housing
Cooperative Societies
Salem Region, Salem

2. SL.SPL.120, Idappadi Cooperative
Housing Society Ltd.,
Idappadi Post
Salem District rep.by its President

...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 in Form No.9 on the file of the first respondent dated 11.06.2015 and the notice (Loan No.273) issued on the file of the second respondent dated 29.05.2015 quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.D.Venkatachalam
Government Advocate

सत्यमेव जयते
ORDER

This writ petition has been filed challenging the impugned proceedings in Form No.9 issued by the Registrar of the District (Housing), the first respondent herein dated 11.6.2015 and the notice (Loan No.273) issued by the second respondent dated 29.5.2015 calling upon the petitioner to deposit a sum of Rs.10,10,408/- within a period of seven days from the date of receipt of such communication.

2. Mr.S.Doraisamy, learned counsel for the petitioner, attacking the impugned proceedings, submitted that the petitioner, being a poor barber running a hair cutting saloon, obtained a loan of Rs.1,89,000/- for reconstruction of his old thatched house and after availing the loan, he had completed the construction and residing in the said constructed house by paying the installments to the second respondent society and finally, till date, he had paid a sum of Rs.1,58,687/-. While so, the first respondent issued a notice on 28.7.2010 under Rules 116 and 126 of the Tamil Nadu Cooperative Societies Rules indicating the pending arrears of Rs.5,12,103.30p informing the petitioner that if the aforementioned amount is not paid, the mortgaged property of the petitioner would be attached and sold in the public auction. Subsequently, the petitioner also paid a sum of Rs.30,000/- and on payment of the said sum, the auction was postponed. Thereafter, the first respondent on 11.6.2015 issued a notice to the petitioner to pay a sum of Rs.5,12,103.30p together with interest and expenses within seven days, failing which his property would be sold in the public auction. Adding further, he submitted that in any event, as per Rule 126(2)(b) of the Tamil Nadu Cooperative Societies Rules, demand notice has to be issued by the Registrar under Rule 119 containing the name of the judgment-debtor, the amount due including the expenses, if any, and the time allowed for payment. Only in case of non-payment, the particulars of the property to be attached or sold, as the case may be, shall be made. In the present case, he has contended that the conditions mentioned under Rule 126(2)(b)(i) has not been followed.

3. It is at this point of time, Mr.D.Venkatachalam, learned Government Advocate appearing for the respondents submitted that the petitioner having paid a sum of Rs.1,58,687/-, subject to correction, has admittedly not cleared the pending arrears, therefore, the impugned notices have been issued by both the respondents calling upon him to pay a sum of Rs.10,10,408/- within seven days of receipt of the notice. He has further submitted that a scheme for one time payment is available with waiver of penal interest and if the petitioner, on payment of certain reasonable amount to show his bona fides, comes forward to the second respondent, his case will be properly considered. It is at this point of time, replying to the said contention, the learned counsel for the petitioner submitted that the petitioner being a poor barber, if four weeks time is granted, the petitioner will be able to pay a sum of Rs.1,50,000/-.

4. Recording the statement of the learned counsel, this Court directs the petitioner to pay a sum of Rs.1,50,000/- within a period of four weeks from today to the second respondent. Subject to the aforesaid payment, the respondents are directed to consider the grant

of waiver, if any, as claimed by the learned Government Advocate. Needless to mention that if the petitioner commits default of payment of the aforementioned amount within four weeks, the impugned notices will automatically stand revived. With this direction, the writ petition stands disposed of. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of the District (Housing)
O/o Deputy Registrar of Housing
Cooperative Societies
Salem Region, Salem
2. The President
SL.SPL.120, Idappadi Cooperative
Housing Society Ltd.,
Idappadi Post
Salem District

1 CC to Mr.S.Doraisamy, Advocate SR.No. 35518

1 CC to Mr.D.Venkatachalam, Advocate SR.No. 35648

1 CC to the Government Pleader, SR.No. 35713

W.P.No.21104 of 2015

BVR (CO)

PSI (16.07.2015)

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