IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2015

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.21360 of 2015
AND M.P.No.1 of 2015

K.Perumal ... Petitioner

Vs.

1. The Deputy Registrar of
Co.operative Societies,
Kancheepuram Circle,
at Kancheepuram,
Kancheepuram District,

2. Kancheepuram Central Co.operative
Bank at Kancheepuram,
rep.by Managing Director,
Kancheepuram,
Kancheepuram District. ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking for the relief of issuance of writ of certiorarified mandamus to call for the records from the 1st respondent relating to the impugned sale notice dated 23.06.2015 and quash the same and direct the respondents not to bring the attached properties for sale till the appeal in C.M.A.No.7 of 2012, pending before the Co.operative Special Tribunal, Kancheepuram is disposed off.

For Petitioner : Mr.N.G.R.Prasad for M/s.R.Rajaram
For Respondents : Mr.R.Balaramesh,
Addl.Govt.Pleader

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ORDER

This writ petition is filed by the petitioner challenging the sale notice dated 23.06.2015 issued by the 1st respondent and seeking a direction to the respondents not to bring the attached properties for sale till the appeal in C.M.A.No.7 of 2012, pending before the Co.operative Special Tribunal, Kancheepuram, is disposed off.

2. Mr.N.G.R.Prasad, learned counsel appearing for the petitioner, finding fault with the impugned sale notice dated

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23.6.2015 issued by the 1st respondent, submitted that the petitioner, having suffered an order dated 21.7.2012 passed by the 1st respondent in R.C.No.2 of 2011, preferred an appeal in C.M.A.No.7 of 2012 before the Special Tribunal for Co.operative Societies Cases at Kancheepuram and the same is also pending before the learned Special Tribunal for Co.operative Societies. He also submitted that along with the appeal the petitioner also moved an application for stay of the order dated 21.7.2012. During the pendency of the said appeal and stay application, the petitioner, to show his bonafide that he is waiting for the early disposal of the C.M.A.No.7 of 2012, has moved an application seeking early disposal of the pending C.M.A. It shows that the petitioner is not dragging on the matter.
Therefore, in the above background, the grievance of the petitioner is that the 1st respondent, without getting any order on merits in the pending C.M.A., ought not to have passed the impugned sale notice dated 23.6.2015 and the same may be set aside.

2. Mr.R.Balaramesh, learned Additional Government Pleader taking notice for the respondents submits that the pending C.M.A.No.7 of 2012 may be directed to be disposed of by Special Tribunal for Cooperative Societies cases at Kancheepuram within a reasonable time.

3. Considering the fact that the petitioner's appeal - C.M.A.No.7 of 2012 is pending on the file of Special Tribunal for Cooperative Societies cases at Kancheepuram along with an application seeking stay, the impugned sale notice cannot be sustained, the reason being, in the event of the petitioner succeeding in the pending C.M.A, he would be put to unnecessary and unimaginable hardship.

4. Therefore, the writ petition is disposed of by directing the 1st respondent to keep the impugned order dated 23.6.2015 in abeyance till the disposal of the C.M.A.No.7 of 2012 pending before the Special Tribunal for Cooperative Societies cases at Kancheepuram. Needless to mention that since early hearing application has already been moved by the petitioner, learned Special Tribunal for Co.operative Societies, Kancheepruam is hereby directed to take up the pending appeal - C.M.A.No.7 of 2012 at an early date and dispose of the same on merits and in accordance with law, preferably, within a period of four months from the date of receipt of copy of this order. However, there is no order as to costs. Consequently, the connected miscellaneous petition is closed.
usk

s/d-
Assistant Registrar(CO)

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Sub-Assistant Registrar

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To

1. The Deputy Registrar of
   Co.operative Societies,
   Kancheepuram Circle,
   at Kancheepuram,
   Kancheepuram District,

2. The Managing Director,
   Kancheepuram Central Co.operative
   Bank at Kancheepuram,
   Kancheepuram,
   Kancheepuram District.

3. The Cooperative Special Tribunal,
   Kancheepuram

+ 1 cc to the Govt.Pleader, High Court, Madras SR 36236

+ 2 ccs to M/s.R.Rajaram, Advocate SR 36225

+ 1 cc to Mr.R.Balaramesh, Advocate SR 36182

gp(co)
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