

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition No.21746 of 2015 and  
M.P.No.1 of 2015

Mani Mathesh

... Petitioner

Vs

1.The Registrar of the District  
(Housing), Salem Region,  
Salem.

2.The Secretary,  
Elavamalai Co-operative  
Housing Society Limited (No.AA 377).  
Bhavani - 638 301,  
Erode District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari by quashing the Form-9 vide Ni.Ma No.101/01-02, case No.1475/00.01 dated 11.06.2015 issued by the first respondent.

For Petitioner : Mr.V.Vijayakumar

For Respondents : Mr.L.P.Shanmugasundaram,  
Special Government Pleader

O R D E R

Heard Mr.V.Vijayakumar, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who takes notice for the respondents and with their consent, the main writ petition itself is taken up for disposal at the admission stage itself.

2.The writ petition has been filed under Article 226 of the Constitution of India seeking to quash Form-9 vide Ni.Ma No.101/01-02, case No.1475/00.01 dated 11.06.2015 issued by the first respondent.

3.The petitioner's father Late Palaniappan Muthaliyar was a "A" class member of the second respondent society. The petitioner is also a member of the second respondent society. On 19.08.1999, the

petitioner's father mortgaged the property with the second respondent and obtained loan for a sum of Rs.3,50,000/-. The petitioner and his brother are the co-applicants in the said mortgage loan.

4.Earlier, when the matter was heard on 20.07.2015, this Court has passed the following order:-

"The petitioner Mr.Mani Mathesh, challenging the auction notice to be held tomorrow (21.07.2015) brining his property for sale, has come to this Court, on the ground that the petitioner's father, who had borrowed a sum of Rs.3,50,000/- on 19.08.1999 from the second respondent society, after repaying a sum of Rs.2,46,858/- died on 22.11.2006. In view of the sudden demise of the petitioner's father, learned counsel for the petitioner stated that the entire family was unaware of the loan amount, however, the petitioner will settle the entire amount by way of monthly installments. He has also stated that the petitioner will pay a sum of Rs.1,00,000/- within one week and thereafter, he being a daily wager, will clear the balance amount by paying a sum of Rs.1,00,000/- on bi-monthly basis. In view of the above statement, the petitioner is directed to bring the demand draft for a sum of Rs.1,00,000/- in favour of the second respondent society on the next hearing date. Till then, the auction notice shall remain stayed. Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice on behalf of the respondents. Post on 27.07.2015 "for orders"".

5.As agreed by the petitioner, today, he has handed over a demand draft bearing No.809929 dated 24.07.2015 for a sum of Rs.1,00,000/- (Rupees one lakh only) to Mr.L.P.Shanmugasundaram, learned Special Government Pleader and who will, in turn, hand it over to the second respondent. The same is recorded.

6.Learned counsel for the petitioner would submit that the petitioner may be granted six months time to clear the entire loan amount payable to the second respondent.

7.Learned Special Government Pleader appearing for the respondents would submit that the balance amount along with interest payable by the petitioner would be quantified within a period of one week from the date of receipt of a copy of this order.

8.In view of the above, the writ petition is allowed and the impugned Form 9 vide Ni.Ma.No.101/01-02 case No.1475/00.01 dated 11.06.2015 issued by the first respondent is quashed. The second

respondent is directed to pass orders thereby quantifying the balance loan amount to be paid by the petitioner, within a period of one week from the date of receipt of a copy of this order. Thereafter, the petitioner shall pay the balance amount as to be quantified by the second respondent in 6 equal moieties on or before 10<sup>th</sup> day of every month commencing from 10.08.2015. It is made clear that if the petitioner fails to repay the balance loan amount as stipulated by this Court, this order shall stand automatically cancelled and the impugned Form 9 vide Ni.Ma.No.101/01-02 case No.1475/00.01 dated 11.06.2015 issued by the first respondent shall stand revived. It is needless to mention that, in case, there is any waiver of penal interest, the second respondent shall apply the same to the petitioner's case also. No costs. Consequently, connected miscellaneous petition is closed.

jbm

s/d-  
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

- 1.The Registrar of the District  
(Housing), Salem Region,  
Salem.
- 2.The Secretary,  
Elavamalai Co-operative  
Housing Society Limited (No.AA 377).  
Bhavani - 638 301,  
Erode District.

+ 1 cc to Mr.V.Vijayakumar, Advocate SR 38489

+ 1 cc to Govt.Pleader SR 38380

+ 1 cc to Mr.L.P.Shanmugasundaram, Advocate SR 38549

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