

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2015

CORAM:

THE HON'BLE MR. JUSTICE T.RAJA

W.P.No.22119 of 2015
and M.P.No.1 of 2015

E.Sekhar

[Petitioner]

Vs

- 1 The Administrator
The Pondicherry Health Employees Co-
operative Housing Society Ltd.
P.533 No.262 Maraimalai Addigal Salai
Arundathi Nagar Pondicherry-605013.
- 2 The Sale Officer
The Pondicherry Health Employees Co-
operative Housing Society Ltd.
P.533 No.262 Maraimalai Addigal Salai
Arundathi Nagar Pondicherry-605013.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records of the 2nd respondent herein in his proceedings ARC No.204/2002 CEP No.5/2003 dated 13.07.2015 passed under Section 133 of The Puducherry Co-operative Societies Act 1972 (No.7 of 1973) and quash the same and further direct the respondents herein to extend time to the petitioner to repay the loan amount till the end of the current financial year i.e. either part payment or total amount due

For petitioner : Mr.S.Kasirajan
For respondent : Mr.R.Sridhar, GA(Pondy)

O R D E R

Heard the learned counsel for the petitioner and Mr.R.Sridhar, learned Government Advocate (Pondy), who took notice for the respondents and with their consent, the main writ petition itself is taken up for disposal.

2. This writ petition has been filed by E.Sekhar, challenging the impugned order passed by the Sale Officer, The Pondicherry Health Employees Co-operative Housing Society Ltd., Pondicherry, in ARC No.204/2002 CEP No.5/2003 dated 13.07.2015 under Section 133 of The Puducherry Co-operative Societies Act 1972 (No.7 of 1973) and to further direct the respondents herein to extend time to the petitioner to repay the loan amount till the end of the current financial year i.e. either part payment or total amount due.

3. Learned counsel appearing for the petitioner would submit that the petitioner who was working as Pharmacist in Rajiv Gandhi Government Women and Children Hospital, Pondicherry, has availed a housing loan of Rs.3,50,000/- from the respondent Housing Society on 28.09.1999, on condition to repay in 17 years on a monthly EMI of Rs.5,023/-. According to the learned counsel for the petitioner, after availing the loan, the petitioner started and completed the construction and simultaneously continued to repay the EMI only for a couple of months and thereafter he was unable to pay the same regularly due to sickness. Learned counsel for the petitioner further submitted that the petitioner was suffering from chronic pulmonary obstruction disease, T.B., Survicul spontulitis etc. and thereafter, the petitioner was on long leave on loss of pay and therefore, he was unable to complete the EMI. In the meanwhile, the petitioner retired from service as Chief Pharmacist on 31.07.2012. The grievance of the petitioner, according to the learned counsel for the petitioner is that when he has paid a sum of Rs.6,15,156/- till 19.03.2013, major portion of such amount ought to have been adjusted towards the principal amount, however, the respondents have deducted the entire payment of Rs.6,15,156/- towards penal interest alone and finally they have issued the present notice. That apart, according to the learned counsel for the petitioner, if sufficient time is granted to the petitioner, he will repay the entire loan amount.

4. Mr.K.Sridhar, learned Government Advocate (Pondy) appearing for the respondents objecting the above prayer submitted that as against the impugned order, the petitioner has to prefer an appeal as per Section 140(1) of the Pondicherry Co-operative Societies Act, 1972 (No.7 of 1973) before the Co-operative Tribunal headed by a District Judge and therefore, sought for dismissal of the writ petition.

5. At this juncture, it is useful to extract below Section 140 (1) of the Act:-

"Appeals

140(1) Any person aggrieved by-

(a) Any decision passed or order made under sub-section (1) of Section 82, Section 83, sub-section (2) sub-section (3) or sub-section (4) of Section 84, section 126, section 133 or section 157; or

(b) any award of an arbitrator or arbitrators under sub-section (2) or sub-section (3) of section 84 may appeal to the Tribunal:".

6. A reading of Section 140(1) of the Act clearly shows that as against any decision passed or order made under Section 133 or any award of an arbitrator, the aggrieved person shall appeal to the Co-operative Tribunal. In the present case, since the impugned order was passed in ARC No.204/2002 CEP No.5/2003 dated 13.07.2015 under Section 133 of The Pondicherry Co-operative Societies Act 1972 (No.7 of 1973), this Court has no jurisdiction to entertain the writ petition. Therefore, the writ petition fails and the same is dismissed. No costs. Connected miscellaneous petition is also dismissed.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To

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+1 cc to Mr.R.Sreedhar, Advocate sr.37485/15
+1 cc to Mr.S.Kasirajan, Advocate sr.377487/15

W.P.No.22119 of 2015

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aa19/08/2015