

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.22650 of 2015

A.Neelavathi

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Petitioner

-vs-

1. The Deputy Registrar (Housing)
Salem, Salem District

2. The Secretary
Omalur Taluk Co-operative Housing Society
(SLM HSG 69)
Omalur, Salem District

..

Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, to call for the records relating to the impugned auction notice dated 26.6.2015 issued by the first respondent and quash the same.

For Petitioner :: Mr.P.Rajendran

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

ORDER

This writ petition has been directed against the impugned auction notice dated 26.6.2015 issued by the Deputy Registrar (Housing), Salem District.

2. Learned counsel for the petitioner submitted that the petitioner being a widow without any job, except earning daily wages, has failed to repay the loan amount of Rs.1,00,000/- borrowed from Omalur Taluk Cooperative Housing Society on 18.3.2002, as her husband late Abbu Naidu died on 4.1.97 leaving behind her with three other children, she is not able to eke out her livelihood, as a result, she was forced to commit default, therefore, the first respondent has issued the auction notice to bring her only residential house property having 800 sq.ft., in R.S.No.723/10 (Old Survey No.302/1), Kethunaickenpatti Pudur, Omalur Taluk that was mortgaged as security for repayment of the debt. Adding further, the learned counsel submitted that the petitioner is not having any source of income to repay the debt,

however, she is prepared to pay Rs.50,000/- before the auction scheduled on 11.8.2015 at 3.00 p.m. With regard to the balance amount, the learned counsel has submitted that the petitioner will be taking earnest efforts to clear the same without any lame excuse. He has also further submitted that a direction may be issued to the respondents to consider the case of the petitioner for waiver of penal interest as per the existing scheme, if any available.

3. On the other hand, Mr.L.P.Shanmugasundaram, learned Special Government Pleader for the respondents submitted that the petitioner having borrowed a sum of Rs.1,00,000/-, after paying only a sum of Rs.7,000/-, has not come forward to repay the balance amount, as a result, interest had accrued. Now the petitioner has no option except to pay back the money or to allow the auction to take place.

4. But this Court finds it difficult to accept the submissions made by the learned Special Government Pleader for the respondents. The reason is that the petitioner, being a widow with three children, is to be given a last chance. Accordingly, recording the submission of the learned counsel for the petitioner that the petitioner will be paying Rs.50,000/- on or before 10.8.2015, the petitioner is directed to pay Rs.50,000/- in the office of the second respondent-Secretary, Omalur Taluk Cooperative Housing Society on or before 10.8.2015 and on receipt of such payment, the impugned auction notice shall be kept in abeyance. It is made clear that the respondents shall work out the case of the petitioner under the waiver scheme, if any available, and shall quantify the balance amount. Subsequently, it is for the petitioner to clear the same within a maximum period of twelve months thereafter. With these observations, the writ petition stands disposed of. Consequently, M.P.No.1 of 2015 is closed. No costs.

Sd/-
सत्यमेव जयते

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

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To

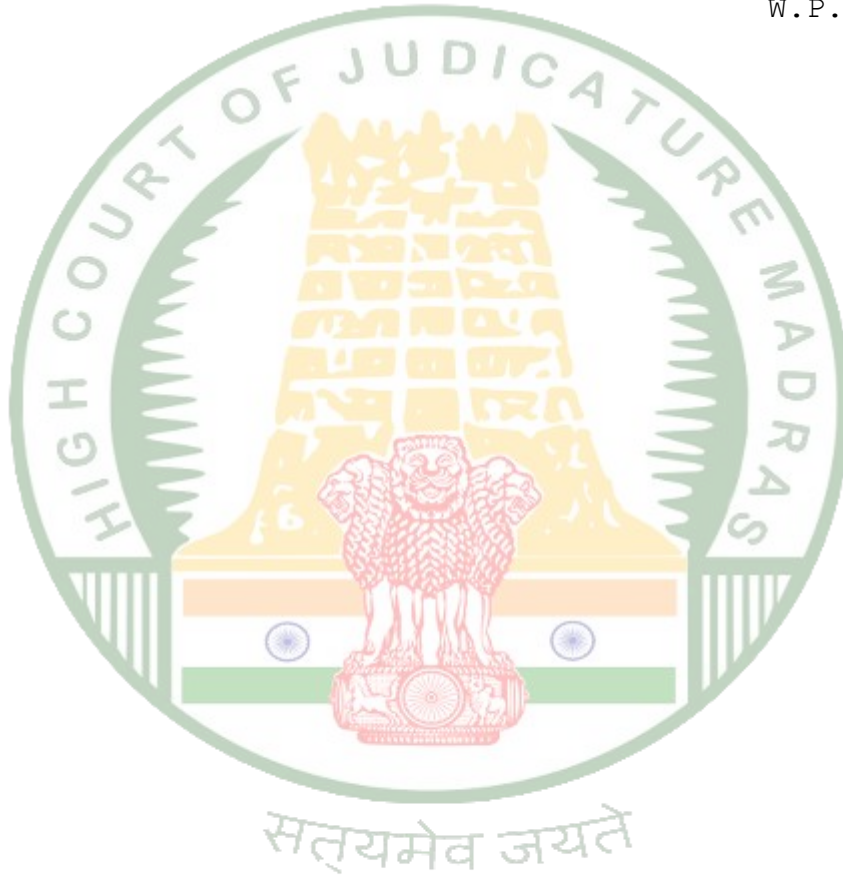
1. The Deputy Registrar (Housing)
Salem, Salem District

2. The Secretary
Omalur Taluk Co-operative Housing Society
(SLM HSG 69)
Omalur, Salem District

1 cc to Mr.L.P. shanmugasundaram, Advocate, Sr. 38878
1 cc to Government Pleader, Sr. 39313
1 cc to Mr.P. Rajendran, Advocate, Sr. 39604

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