

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2015

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.23307 of 2015
and M.P.No.1 of 2015

E.Kalaiselvi

[Petitioner]

Vs

- 1 The District Registrar (Housing)
Salem Region Salem.
- 2 The President
No.9782-Erode Co-operative Housing Society Ltd.
Balasubarayala Street Erode-638 001.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorari to call for the records relating to the impugned public notice auction notice dated 16.06.2015 as per under Rule 126(2) of Tamil Nadu Co-operative Societies 1988 Ni.Ma.No.194 of 2009-10/dispute number 7354 of 2004-2005 issued by the first respondent for bringing the petitioners immovable property for public auction on 18.08.2015 property at Erode Registration District Erode Taluk Ellapalayam Village Old Ka.Sa. No.13/1 Punjai A 8.12 Rs.6.58 in Punjai 1.31 New Re-Survey No.81/5 Part Plot No.17 Chola Nagar Thattangadu Door No.103 and the RCC Building constructed in the land in the schedule mentioned property and quash the same.

For Petitioner : Mr.P.Immanuel Prakasam

For Respondents : Mr.L.P.Shanmugasundaram, SGP

O R D E R

Heard the learned counsel for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who took notice for the respondents and with their consent, the main writ petition itself is taken up for hearing.

2. This writ petition has been filed by E.Kalaiselvi, W/o Elumalai, challenging the impugned auction notice dated 16.06.2015 issued under Rule 126(2) of Tamil Nadu Co-operative Societies, 1988 by the first respondent, pursuant to the award dated 02.02.2005 passed in Award No.7354 of 2004-2005, for bringing the petitioner's immovable property for public auction on 18.08.2015.

2. Learned counsel appearing for the petitioner would submit that the petitioner, being a tailor, in order to expand her tailoring business, had borrowed a sum of Rs.2,50,000/- from the 2nd respondent by mortgaging the immovable property. Further, the learned counsel would further submit that the petitioner, till date, has repaid a sum of Rs.90,000/-, however, due to business fluctuations, followed by reasons beyond her control, she was unable to repay the instalments regularly, as a result, arbitral proceedings was initiated, which was also ended against the petitioner, by passing an award in Award No.7354 of 2004-2005 dated 02.02.2005 and subsequently, the petitioner has been issued with the impugned notice, bringing the property for sale in a public auction to be held on 18.08.2015.

3. Adding further, the learned counsel for the petitioner would submit that as the petitioner is poor and eking out her livelihood only through the tailoring business, if some reasonable time is granted to repay the entire amount, the petitioner, by making use of the last chance afforded, without committing any default further, will clear the entire balance amount.

4. It is at this point of time, Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for the respondents, placing on record the break up figure payable by the petitioner, a perusal of which also reveals that the petitioner till date has to pay a sum of Rs.8,39,023/-, submitted that if the petitioner shows her bona-fide in paying a substantial amount on or before the auction date viz., 18.08.2015, and continue to pay the balance amount within stipulated period, till such time, the auction may be directed to be kept in abeyance.

5. In reply, Mr.P.Immanuel Prakasam, learned counsel for the petitioner would submit that the petitioner will pay a sum of Rs.2 lakhs on or before 17.08.2015. He has also further undertaken that the petitioner would pay a sum of Rs.50,000/- once in two months till she clears the entire dues and accepting the said undertaken given, the impugned order may be directed to be kept in abeyance.

6. Recording the undertaking given by the learned counsel for the petitioner that the petitioner would be paying a sum of Rs.2 lakhs (Rupees two lakhs only) on or before 17.08.2015 and would continue to pay a sum of Rs.50,000/- (Rupees fifty thousand only) in every two months, till she clears the balance amount, this writ petition is disposed of by directing the respondents to keep the auction notice in abeyance till such repayment is made. It is made clear that if there is any failure on the part of the petitioner in

paying any amount within the stipulated time as indicated above, the impugned order shall stand automatically revived and it is left open to the respondents to proceed further.

No costs. Connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

- 1 The District Registrar (Housing)
Salem Region Salem.
- 2 The President
No.9782-Erode Co-operative Housing Society Ltd.
Balasubarayala Street Erode-638 001.

+1 cc to Mr.P.Immanual Prakasam, sr.39132

+1 cc to Government Pleader, sr.39794.

tej(co)
kra(11/08)

W.P.No.23307 of 2015

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