

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.26683 of 2015
and M.P.No.1 of 2015

1.M.Ganapathy
2.G.Murugan
3.Vijayalakshmi

.. Petitioners

Versus

1. The Deputy Registrar of Co-operative Societies (Housing),
Salem Region,
Salem.
 2. The Secretary
The Sathyamangalam Taluk Co-operative
Housing Society Ltd., No.SLM-HSG-84
Rangasamuthiram,
Sathyamangalam
Erode District.
 3. The Registrar of the District / The Sale Officer
Salem Region,
Salem
- .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records in respect of the auction sale notice dated 8.7.2015 issued by the 3rd respondent ad quash the same.

For Petitioners	:	Mr.I.C.Vasudevan
For Respondents 1 & 3	:	Ms.T.P.Savitha
		Government Advocate
For Respondent 2	:	Mr.L.P.Shanmugasundaram
		Spl.Govt. Pleader (Co-op.)

ORDER

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.I.C.Vasudevan, the learned counsel appearing for the petitioners; Ms.T.P.Savitha, Government

Advocate for respondents 1 and 3 and Mr.L.P.Shanmugasundaram for the second respondent.

3. These petitioners have challenged the auction notice dated 08.07.2015 proposing to bring the petitioners' house property for sale, on account of the default committed by the petitioners.

4. The learned counsel appearing for the second respondent submitted that as on 31.08.2015, the petitioners have to pay Rs.4,67,976/- together with interest and penal interest. Now, the petitioners have to deposit a sum of Rs.2,65,057/- after giving credit to the amount of Rs.90,000/- paid by them, pursuant to the interim order granted by this Court on 26.08.2015 in this Writ Petition and the amount waived towards EMI interest and Penal Interest to the tune of Rs.1,12,919/-.

5. It is further pointed out by the learned counsel for the second respondent-Society that the petitioners had suppressed the fact that they had filed a Writ Petition earlier in W.P.No.22113 of 2010 and this Court has granted an order of interim stay, subject to the condition of depositing 50% of the demand amount. However, the petitioners did not comply with the interim order nor disclosed the fact of filing such a Writ Petition in the present Writ Petition. Therefore, it is the submission of the respondents that the petitioners have approached this Court with unclean hands.

6. The learned counsel appearing for the petitioners do not dispute the above position and would state that the petitioners have not mentioned about the earlier writ petition which they had filed and it appears that the present counsel who is appearing for the present case is not aware of the same. Further, the learned counsel submits that the petitioners may be granted some breathing time so that they can settle the dues as they are very poor persons.

7. In the light of the above, the Writ Petition is dismissed giving liberty to the petitioners to approach the second respondent Society with an offer to settle the entire dues within a stipulated time. If such an offer is made within a period of two weeks from the date of receipt of a copy of this order, the second respondent shall consider the same and pass appropriate orders, which the petitioners shall comply with. If the petitioners fail to submit such a petition before the second respondent within the time permitted by this Court, the benefit

of this order will not enure to the petitioners and it is open to the respondents to initiate recovery proceedings. No costs. Consequently, connected miscellaneous petition is closed.

ds

s/d-

Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To:

1. The Deputy Registrar of Co-operative Societies (Housing),
Salem Region,
Salem.
 2. The Secretary
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Rangasamuthiram,
Sathyamangalam Erode District.
 3. The Registrar of the District / The Sale Officer
Salem Region,
Salem
- + 1 cc to Mr.I.C.Vasudevan, Advocate SR 61854
- + 1 cc to Mr.L.P.Shanmugasundaram, Advocate SR 61928
- + 1 cc to Govt.Pleader SR 62451

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