

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.35517 of 2015 and M.P.No.1 of 2015

Koteeswaran

...Petitioner

Vs

1. Deputy Registrar of Co-operative Societies
(Housing)
Vellore Zone, Vellore.

2. The Co-operative Sub-Registrar /
Sales Officer (Housing),
Thirupattur, Vellore District

3. The Special Officer,
C-2041, Jolarpet Co-operative Building
Society,
S-Kodiyur, Jolarpet,
Vellore District.

...Respondents

Prayer : Writ Petition has been filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records of the 1st respondent in A.R.C.No.2540/03-04, C.E.P.No.110/09-10 dated 28.09.2015 and quash the same.

For Petitioner :Mr.S.V.Karthikeyan

For Respondents :Mr.D.Venkatachalam
Government advocate

O R D E R

Heard Mr.S.V.Karthikeyan, learned counsel appearing for the petitioner and Mr.D.Venkatachalam, learned Government Advocate appearing for the respondents. With the consent of either side, the Writ Petition itself is taken up for final disposal at the admission stage.

2.The Petitioner seeks a Writ of Certiorari to call for the records of the 1st respondent in A.R.C.No.2540/03-04, C.E.P.No.110/09-10 dated 28.09.2015 and quash the same.

3.The petitioner is the son of Raja, who availed the housing loan in the year 2002. It appears that the petitioner's father has defaulted by not paying the instalments. The petitioner's father said to have passed on 28.06.2010 leaving behind the petitioner, his sister and his brother as the legal heirs. It is not known as to why the petitioner did not pay the housing loan after his father's demise, though he secured legal heir certificate in the year 2001.

4.Now, the property has brought to auction on account of non payment of amount. The plea raised by the petitioner that the respondents are charging exorbitant interest is out rightly rejected, as being devoid of merits. The petitioner's father having borrowed the loan should have repaid it during his life time and now the petitioner, brother and sister having succeeded the property by inheritance, bound to pay the entire loan. It is stated that auction notice was issued on 28.09.2015 fixing date of auction on 14.11.2015. The petitioner, in the last minute rushing before this Court to quash the impugned notification and on the ground raised by the petitioner, the impugned notification cannot be quashed.

5.However, one more opportunity is granted to the petitioner to set right the breach committed by him. In the light of the above, the Writ Petition is disposed of with the following direction:-

(i) If the petitioner deposits a sum of Rs.1,50,000/- (Rupees one lakh fifty thousand only) before the 2nd respondent the auction shall not be carried on, failing which the auction will go on.

(ii) In the event, if the petitioner deposits Rs.1,50,000/-, the remaining loan amount shall be paid by the petitioner within a period of eight weeks from the date of receipt of copy of the order.

(iii) If the petitioner fails to deposit the said amount as directed by this Court the Writ Petition stands dismissed automatically without further reference to this Court. Consequently connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

True Copy
Sub Assistant Registrar

To

1. Deputy Registrar of Co-operative Societies
(Housing)
Vellore Zone, Vellore.
2. The Co-operative Sub-Registrar /
Sales Officer (Housing),
Thirupattur, Vellore District
3. The Special Officer,
C-2041, Jolarpet Co-operative Building
Society,
S-Kodiyur, Jolarpet,
Vellore District.

+1cc to Mr.S.V.Karthikeyan, Advocate Sr.60014

+ 1 CC TO THE GOVT.PLEADER, SR 60742 (5/1/16)

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srg 3/11/2015

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