

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18/12/2015

C O R A M

THE HONOURABLE Mr.JUSTICE T.S.SIVAGNANAM

W.P.No.39610 of 2015

1. Pachaiyappan
2. Thangaraj ... Petitioners

Vs

1. The Managing Director
Thiruvannamalai Taluk Co-operative
Housing Society Ltd
14 Polur Road
R.R.Complex
Thiruvannamalai 1.
2. The Sales Executive
Deputy Registrar (Housing) Office
Vellore
at No.14 Polur Road
Thiruvannamalai 1.
3. The Tahsildar
Thiruvannamalai
Thiruvannamalai District. ... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorari to call for the records on the file of the third and second respondents in O.Mu.(AA-1)33253/2015 dated 1/12/2015 more specifically issued by the third respondent accompanying with the impugned proceedings of the second respondent dated Nil Loan No.444/LIG and quash the same as illegal.

For petitioner ... Mr.S.Venkatesh
For respondents ... Mr.L.P.Shanmuga Sundaram
Special Government Pleader
for R.R.1 and 2
Mr.S.Diwakar
Additional Government Pleader
for R.3.

O R D E R

With the consent of the learned counsel appearing for the parties, this writ petition is taken up for final disposal.

2. Heard Mr.S.Venkatesh, learned counsel for the petitioner, Mr.L.P.Shanmuga Sundaram, learned Special Government Pleader for the first and second respondents and Mr.S.Diwakar, learned Additional Government Pleader for the third respondent.

3. This writ petition has been filed praying to quash the order passed by the third and second respondents in O.Mu.(AA-1) 33253/2015 dated 1/12/2015 more specifically issued by the third respondent accompanying with the impugned proceedings of the second respondent dated Nil in Loan No.444/LIG.

4. The petitioner has challenged the Proceedings issued by the first respondent Society, calling on the petitioner to pay the loan amount in full, failing which the house property would be brought for auction.

5. The petitioner pleads that the proceedings initiated by the first respondent Society before the Registrar under Section 90 of the Tamil Nadu Co-operative Societies Act was without notice to the petitioner.

6. In order to ascertain the full facts, on 16/12/2015, the learned Special Government Pleader appearing for the respondents 1 and 2 was directed to get instruction from the respondents.

7. Accordingly, instruction has been obtained and it is seen that the petitioners are due and payable to the first respondent Society, a sum of Rs.3,28,628/-. Further, it is stated that if the benefit of the waiver scheme is extended to the petitioners, then amount payable as on 15/12/2015 would be Rs.2,30,998. Further, it is stated that the decree which was passed on 8/2/2010 was served on the same day on the second respondent and to establish the same, copies of the decree have been produced in which the signature of the second respondent finds place. Therefore, the plea that the petitioner is unaware about the proceedings initiated before the Arbitrator cannot be accepted.

8. However, considering the fact that the house property is to be brought for auction, one more opportunity is granted to the petitioners to show their bona fides, so that the property can be saved from being brought for public auction.

9. Thus, by applying the waiver scheme, the petitioner is due and payable to the first respondent a sum of Rs.2,30,998/-, there will be a direction to the petitioners to pay a sum of Rs.1 lakh (Rupees One lakh only), within a period of eight weeks, from the date of receipt of a copy of this order and approach the first respondent Society, requesting for rescheduling the loan or for grant of instalments and if the same is done, the first respondent is directed to consider such representation on merits and in accordance with law. However, if the petitioner fails to remit the sum of Rs.1 lakh within the time permitted, the benefit of this order will not enure to the petitioner and it is open to the first respondent to proceed for recovery, in accordance with law.

10. With the above direction, this writ petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

True Copy

Sub Assistant Registrar

To

1. The Managing Director
Thiruvannamalai Taluk Co-operative
Housing Society Ltd
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Thiruvannamalai 1.
2. The Sales Executive
Deputy Registrar (Housing) Office
Vellore
at No.14 Polur Road
Thiruvannamalai 1.
3. The Tahsildar
Thiruvannamalai
Thiruvannamalai District.

+1cc to Mr.S.Venkatesh, Advocate sr.68387

+1cc to Government Pleader Sr No.68742[12.2.2016]

+1cc to Mr. L.P. Shanmugasundaram Advocate Sr.68922(12.2.2016)

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