

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.40636 of 2015

and

M.P.No.1 of 2015

Ramu

..Petitioner

Vs.

1.The S-944 Krishnagiri Co-operative House
Building Society,
Rep. by its Secretary,
East Link Road, Krishnagiri Town and District.

2.The Deputy Registrar (Housing)
The S-944 Krishnagiri Co-operative House
Building Society,
Vellore Region, Vellore.

..Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records on the file of the second respondent made in order No.02444 and Housing loan No.HM158 dated 23.11.2015 and quash the same and consequently forbear the respondents their men, agents, servants, subordinates or anybody acting on their behalf from in any way auctioning the land and building situated at Door No.43, S.No.14, New S.No.571/3, H.A.0.08.040 bounded on the north by: Kullu Veedu, East by:Arul Thulukanamman Koil, West by: Nagamani's land, South by Road, either on 28.12.2015 or any other future date.

For Petitioner : Mrs.Selvi George

For Respondent 1 : Mr.M.Dig Vijay Pandian
Additional Government Pleader

For Respondent 2 : Mr.D.Venkatachalam
Government Advocate

ORDER

Heard Mrs.Selvi George, learned counsel appearing for the petitioner; Mr.M.Dig Vijay Pandian, learned Additional Government Pleader appearing for the first respondent and Mr.D.Venkatachalam, learned Government Advocate appearing for the second respondent and by their consent, the Writ Petition is taken up for final disposal.

2. The petitioner is aggrieved by a notice issued by the second respondent under Rule 126 of the Tamil Nadu Co-operative Societies Rule 1988, in and by which, the house property, in which the petitioner is stated to be residing, is brought for sale by way of public auction, on account of default committed in making payment of housing loan. As on date, a sum of Rs.5,22,775/- is due and payable and the sale is pursuant to an award passed in A.R.C.No.2001/03.04. Admittedly, the petitioner has not challenged the said award passed by the Arbitrator. The petitioner states that he has filed a suit in O.S.No.195 of 2010 before the District Munsif Court, Krishnagiri, for declaration of the petitioner's title over the suit property and for permanent injunction. In the said suit, the first respondent herein is the first defendant, who has been impleaded by his name, namely Mani Sekar. That apart, the petitioner's brother is the second defendant, the Special Officer, Society is the third defendant and the Sales Officer is the fourth defendant. The suit is pending since 2010 and the defendants namely the respondent Society has filed their counter in the interlocutory application. Since the petitioner has not challenged the award passed in A.R.C.No.2001/03.04, the petitioner cannot be permitted to appeal against the impugned notice. That apart, it appears that no interim order has been granted by the Civil Court. Under such circumstances, the only remedy available to the petitioner is that he has to raise objections or claims before the second respondent in terms of Section 135(3) of the Rules.

3. The learned counsel appearing for the respondents submitted that if such objection is raised, the second respondent will consider the same on merits and in accordance with law.

4. In the light of the above, the Writ Petition is disposed of by giving liberty to the petitioner to file his claim/objection before the second respondent under Section 135 (3) of the Rules and if the same is filed, the second respondent shall consider the same on merits and in accordance with law within a period of three weeks from the date of said application. There will be a direction to the petitioner to

file his objection on or before 27.12.2015 and if the same is filed, the Sales Officer shall consider the objection and thereafter proceed with the auction. No costs. Consequently, connected miscellaneous petition is closed.
ds

Sd/-
Asst.Registrar

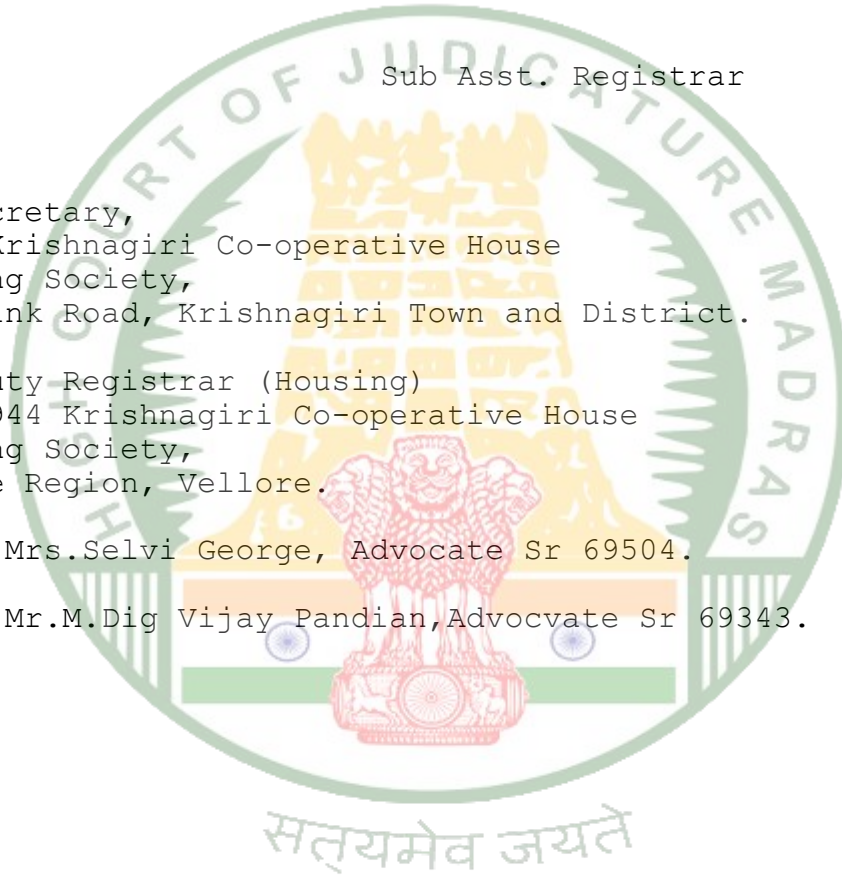
/true copy/

Sub Asst. Registrar

To:

1. The Secretary,
S-944 Krishnagiri Co-operative House
Building Society,
East Link Road, Krishnagiri Town and District.
 - 2.The Deputy Registrar (Housing)
The S-944 Krishnagiri Co-operative House
Building Society,
Vellore Region, Vellore.
- + 1 cc to Mrs.Selvi George, Advocate Sr 69504.
- + 1 cc to Mr.M.Dig Vijay Pandian,Advocate Sr 69343.

GR/CO
KR/23/12



W.P.No.40636 of 2015

WEB COPY