

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:08.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.29339 of 2015
and MP.No.1 of 2015

R.Ganapathy

.. Petitioner

Versus

1. The Special Officer
Chennai Metropolitan Co-operative Housing
Society Limited, No.50, Ritherdon Road,
Vepery, Chennai -600 007
2. The Deputy Registrar of Co-operative
Societies (Housing)
O/o. The Deputy Registrar,
No.18, Ramanathan Street, T.Nagar,
Chennai -600 017
3. The Co-operative Sub Registrar
Sales Officer
O/O, The Deputy Registrar
No.18, Ramanathan Street, T.Nagar
Chennai - 600 017

... Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of Certiorarified mandamus calling for the records of the 3rd respondent impugned auction notice dated 06.5.2015 and 01.8.2015 and in form no.8 and 9 dated 06.5.2015, in CEP.No. 35/2004-05 in respect of petitioner property and quash the same and further direct the respondents society to provide an opportunity for one time settlement of the said mortgage loan in respect of the schedule mentioned property.

For Petitioner : No Appearance

For R1 : Mr.M.R.Murugan

For R2 and R3 : Mr. Bala Ramesh
Additional Government Pleader

ORDER

The petitioner has filed this writ petition to quash the auction notifications issued by the third respondent and consequently, direct the respondents to provide an opportunity for one time settlement of the mortgage loan.

2. When the writ petition was entertained on 16.9.2015, interim stay was granted subject to the condition that the petitioner deposits a sum of Rs.2,00,000/- within the time frame.

3. The learned Additional Government Pleader appearing for the respondents 2 and 3 submits that the conditional order has been complied with by the petitioner by depositing a sum of Rs.2,00,000/-.

4. It is submitted by the learned counsel for the respondents 2 and 3 that under similar circumstances, this Court, by order dated 05.02.2016 in WP.No.30901 of 2015, permitted the petitioner therein to pay the amount within three months. The operative portion of the said order reads as follows:

"4. Heard the learned counsel appearing for the parties. I am of the view that, it may not be necessary to examine as to whether the petitioner should be asked to avail the abovesaid alternate remedy, since it is a simple loan transaction, and the petitioner, being a defaulter, has to repay the amount. However, considering the family predicament of the petitioner, this Court is inclined to grant some indulgence. Accordingly, the total amount, as on 31.01.2016, viz., Rs.3,75,570, stands frozen as it is, and the second respondent is not entitled to any other interest, or, penal interest. The petitioner is directed to repay the entire amount within a period of three months from the date of receipt of a copy of this order. If the petitioner fails to comply with the aforesaid condition, then, the second respondent is entitled to proceed against the property in accordance with law. "

5. The learned Additional Government Pleader for the respondents 2 and 3 submitted that after giving credit to the amount of Rs.2,00,000/- paid by the petitioner pursuant to the interim order of this Court, a sum of Rs.12,94,515/- is due as on 31.3.2016.

6. Considering the nature of loan transaction and also considering the facts of the case, this court is of the view that in order to save the property, the petitioner should be shown some indulgence. But at the same time, interest of the respondents should also be protected. Accordingly, the total outstanding amount as on 31.3.2016, viz., Rs.12,94,515/- stands frozen as it is and there could be no further claim. The petitioner is directed to repay the entire amount within a period of five months from the date of receipt of a copy of this order. If the petitioner fails to pay the due amount within the stipulated period, the respondents are entitled to proceed further in accordance with law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

To

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Chennai - 600 017.

+1cc to M/s.M.R.Murugan, Advocate sr.14716

WP.No.29339 of 2015

rsi(CO)
srg(23/03/2016)