

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2016

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P. NO. 3701 of 2016

and

WMP No. 3088 of 2016

1. A. Shanthi
 2. R. Alagesan
 3. Kalaivani
 4. Raja
- ... Petitioners

-vs-

1. The Arbitrator/
Co-operative Sub Registrar
Co-operative Sub Registrar (Housing)
Sankari
Salem District.
 2. The Branch Manager
Edapaddi Co-operative Building
Society (Ltd.) S. 970
Edappadi - 637 101
Salem District.
- Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the order passed by the 1st respondent in No. Thava/621/ 2004-2005 dated 15.09.2015 and quash the same and consequentially direct the 1st respondent to conduct fresh enquiry by giving opportunity to the petitioners in proceeding No.621/2004-2005 and pass further orders.

For petitioner : Mr. R. Marudhachalamurthy
For respondents: Mr. L.P. Shanmughasundaram,
Spl. Govt. Pleader for R1
Mr. T.P. Saritha, G.A for R2

O R D E R

With the consent of both parties, the writ petition is disposed of at the stage of admission itself.

2. All the petitioners belong to the same family. The first petitioner is the wife of the second petitioner and the third and fourth are the children of the first petitioner. The challenge in the present writ petition is to the award passed by the Arbitrator/ Co-operative Sub Registrar (Housing), Sankari, Salem District, by which the petitioners have been held to be due and liable to pay a sum of Rs.6,05,230.25. Learned counsel for the petitioners submitted that the impugned order is in a printed format and the details are to be filled up and this shows that the impugned order is a clear outcome of non-application of mind. Further, it is stated that the petitioners 1 and 2 had engaged a Lawyer and appeared in the proceedings conducted on 26.05.2015 and filed a detailed objection. However, the same has not been mentioned in the impugned proceedings.

3. On perusal of the impugned proceedings, it is evident that it does not reveal that there has been application of mind. An award passed by the Arbitrator should be a speaking Award, considering the points raised by the respondents and cannot be in the printed format, as mentioned above. Further more, the petitioners have engaged an Advocate and have filed a counter and there is no reference to the stand taken by the respondents therein, in the counter affidavit. All these would render the impugned award as unsustainable in law.

4. Hence, for the above reasons, the Writ Petition is allowed and the matter is remanded to the first respondent for fresh consideration and shall issue notice for the second hearing, to the parties to appear either in person or through counsel and pass a speaking Award, giving reasons. The above direction shall be complied with, by the first respondent, within a period of six weeks from the date of receipt of a copy of this order. Consequently, the Miscellaneous Petition is closed. No costs.

avr

s/d-
Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

To

1. The Arbitrator/
Co-operative Sub Registrar
Co-operative Sub Registrar (Housing)
Sankari
Salem District.

2. The Branch Manager
Edapaddi Co-operative Building
Society (Ltd.) S. 970
Edappadi - 637 101
Salem District.

+ 1 cc to Mr.Maruthachalamurthi, Advocate SR 6574

+ 1 cc to M/s.Savitha Advocate SR 7188

mg(co)
prk15/2

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