

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 17-02-2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.5742 OF 2016

E.Kalaiselvi

...Petitioner

-VS-

1. Sub-Registrar of Co-operative Societies,
Office of Deputy Registrar, Credit,
Kilpauk, Chennai-10.
2. The George Town Co-operative Bank Ltd.,
Dr.P.Natesan Buildings,
62/2, Krishnappa Agraharam Street,
Chennai-79.
3. Varma & Company,
New No.25, Flowers Road,
Chennai-84.

...Respondents

Petition under Article 226 of the Constitution of India, praying for issuance of a writ of certiorari, to call for the records of first respondent in Award No.2186/05-06, dated 16.05.2006, on the file of the Sub-Registrar of Co-operative Societies, first respondent, and quash the same,

For petitioner : Mr.K.Gajendiran

For respondents : Mr.Bala Ramesh,

Addl.Govt.Pleader.

O R D E R

Petitioner, who had availed Housing Loan, defaulted in payment, as a result of which, proceedings were initiated by the second respondent for recovery of the amount and an award has been passed by the first respondent on 16.05.2006.

2. Petitioner would state that the award was not communicated to her and hence it was an ex parte award. The said statement has been found to be clearly incorrect, since the learned Additional Government Pleader, on written instructions from the second respondent, has stated that the award has been communicated to the petitioner in the year 2006 itself.

Therefore, at this juncture, the question of quashing the impugned award does not arise.

3. As on date, the total amount due and payable by the petitioner towards principal is Rs.4,11,932/-. Added to it, the second respondent has claimed a sum of Rs.5,47,790/- towards interest and Rs.500/- towards postal expenses. In all, a sum of Rs.9,60,222/- is due from the petitioner. Now, the only option left for the petitioner is to pay up the entire dues, as it is stated that there is no power for the Board to waive interest. Further, it has been pointed out that if the petitioner is aggrieved over the award, she ought to have filed an appeal against such award before the Co-operative Tribunal, which, she has not done. In the given situation, the challenge to the award, dated 16.05.2006, is not maintainable. However, the petitioner is granted time of six weeks from today, to pay the entire principal of Rs.4,11,932/-. So far as interest is concerned, the petitioner is directed to approach the second respondent, requesting for some more time to clear the same. This direction is without prejudice to the right of the petitioner to question the award, dated 16.05.2006, in the manner provided under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. If the petitioner fails to pay the amount as per the above direction, the benefit of this order will not enure to her, and the Writ Petition would be automatically dismissed.

4. Writ Petition is disposed of accordingly. No costs. Consequently, the connected W.M.P.No.5080 of 2016 is closed.
dixit

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

To

1. Sub-Registrar of Co-operative Societies,
Office of Deputy Registrar, Credit,
Kilpauk, Chennai-10.

2. The George Town Co-operative Bank Ltd.,
Dr.P.Natesan Buildings,
62/2, Krishnappa Agraharam Street, Chennai-79.

+ 1 cc to Govt.Pleader SR 10079

+ 1 cc to Mr.K.Gajendiran, Advocate Sr 2327 (11/3/16)

ksj(co)
prk22/2

W.P.No.5742 OF 2016