

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.02.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.6800 of 2016  
and  
WMP No.6064 of 2016

M.Danasekaran

.. Petitioner

Versus

1. Government of Tamilnadu,  
Rep. by its Secretary to Government,  
Food, Cooperation and Consumer Protection Deptt.,  
Fort St. George, Chennai - 600 009

2. The Deputy Registrar (Housing),  
Vellore Region, Vellore.

3. Thiruvathipuram Cooperative Housing Society,  
6/12, East Mada Street,  
Thiruvathipuram 604 407,  
Cheyyar Taluk, Tiruvannamalai District.

.. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of certiorarified mandamus, calling for the records pertaining to the auction notice dated 19.01.2016 in ARC No.893/03-04 and CEP No.573/04-05 issued by the 2nd respondent and quash the said auction notice dated 19.1.2016 and consequently, directing the respondents to waive the interest and penal interest as per the scheme issued by the 1st respondent herein.

For Petitioner : Mr.M.Murali

For Respondents : Mr.L.P.Shanmugasundaram  
(for R1 to R3)  
Special Government Pleader

O R D E R

Heard M.Murali, learned counsel for the petitioner, and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, after accepting notice for the respondents. By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. The petitioner has filed this writ petition challenging the auction notice issued by the 2nd respondent bringing the petitioner's house for sale for default committed in repayment of the housing loan.

3. Admittedly, the petitioner has not challenged the Arbitration Award, which has ultimately resulted in the impugned sale proceedings. The total amount as per the impugned sale notification is Rs.4,61,528/- and the sale is fixed tomorrow, i.e., 25.02.2016 and the petitioner has approached this Court at the last moment, though, the sale notice was issued on 19.01.2016. Considering the fact that the petitioner is a carpenter and daily wage earner, this Court is inclined to grant one indulgence to the petitioner on condition.

4. Accordingly, while rejecting the prayer to quash the impugned notice, the petitioner is granted liberty to pay a sum of Rs.1,00,000/- (Rupees One Lakh Only) by tomorrow before the 2nd respondent and if the same is paid, the 2nd respondent shall postpone the sale. Thereafter, it is open to the petitioner to submit a representation to enable him to pay the amount in instalments. If the petitioner complies with the above condition, the respondent shall postpone the sale. Otherwise, the 2nd respondent is entitled to proceed further.

5. The writ petition is dismissed. No Costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-  
Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government of Tamilnadu,  
Food, Cooperation and Consumer Protection Deptt.,  
Fort St. George, Chennai - 600 009

2. The Deputy Registrar (Housing),  
Vellore Region, Vellore.

3. Thiruvathipuram Cooperative Housing Society,  
6/12, East Mada Street,  
Thiruvathipuram 604 407,  
Cheyyar Taluk, Tiruvannamalai District.

+1 cc to Mr.M.Murali, Advocate, sr.11452

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kra 24.02.2016

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