

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.9128 of 2017 and
W.M.P.No.10053 of 2017

K.Immaculate

..Petitioner

Vs.

1. The Registrar of Co-operative Societies (Housing)
No.22,4th Main Road,
Gandhi Nagar, Adyar,
Chennai 600 020.
2. The General Manager,
Tamilnadu Co-operative Housing Federation,
No.48, Ritherdon Road,
Veppery, Chennai 600 008.
3. The Secretary/Special Officer,
MDA.HSG.109, Rajapalayam Taluk Co-operative
Housing Society Ltd., Pannaiyar Theru,
Chinnasuraikappatti, Rajapalayam- 626 117.
4. The Zonal Manager,
The Life Insurance Corporation of India,
Zonal Office,
LIC Building,
153, Anna Salai,
Chennai-2.

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus to direct the respondents 1 to 3, to waive the housing loan obtained by the petitioner's mother on account of her death under the group insurance scheme based on the representation and further to direct the respondents 1 to 3, to stop all coercive steps by way of auction, attachment or making any encumbrance against the petitioner's house property situated at Kamaraj Nagar, South Devathanam Village, Rajapalayam Taluk, Virudhunagar District.

For petitioner : Mrs.A.Tasmiyah
For R1 & R2 : Mr.V.Selvaraj,
Additional Government Pleader

For R3 : Mr.L.P.Shanmuga Sundaram,
Special Government Pleader

For R4 : Mr.A.Mohan Doss

ORDER:

According to the petitioner, being a member of the Rajapalayam Taluk Cooperative Housing Society Limited, the petitioner's mother availed a housing loan of Rs.2,00,000/- by mortgaging a property. At first, the due instalments were paid properly. But, after an accident occurred on 05.05.2003 when the petitioner's mother died on the spot and the petitioner and the family members sustained severe injuries, even one instalment for the due amount could not be paid by the petitioner. Hence, the petitioner's father sent representation to the second respondent claiming the group insurance facilities to waive the loan amount. Based on the representation, the second respondent directed the third respondent to sent the particulars of the petitioner's mother. But, the third respondent did not take action in this regard and continued to insist the repayment of the loan.

2. The learned counsel for the petitioner would submit that there is 'group insurance facility' which could be made use of by the borrower's family to claim waiver of the loan amount, after the death of the borrower. Further, the petitioner had approached the respondents within three months from the death of the petitioner's mother for availing the 'group insurance facility' as per circular No.11267/2011-2012/A1 of the second respondent. But, the petitioner has not received any reply. Hence, the petitioner has filed this writ petition for directing the second respondent to consider the representation of the petitioner's father for waiving the loan amount borrowed by the petitioner's mother.

3. The learned counsel for the respondents admitted that when a member of the society died during the time of repayment of loan, the entire due amount should be waived based on the group insurance scheme. But, the group insurance scheme could not favour the petitioner in this regard as the petitioner's father is also a member of the society. Further, if the petitioner is aggrieved over this dispute, there is a provision to approach the competent authority under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983. Hence, this

writ petition is liable to be dismissed as not maintainable.

4. From the submissions made by the learned counsel for the respondents, it is clear that without approaching the competent authority, the petitioner has filed this writ petition. Hence, the writ petition is not maintainable.

5. The writ petition is dismissed as not maintainable with liberty to the petitioner to approach before the competent authority within a period of two weeks from the date of receipt of a copy of this Order, if so advised. Consequently, connected miscellaneous petition is closed. No costs.

s/d-

Assistant Registrar (CS-V)

True Copy

Sub-Assistant Registrar

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To

1. The Registrar of Co-operative Societies (Housing)
No.22, 4th Main Road,
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4. The Zonal Manager,
The Life Insurance Corporation of India,
Zonal Office,
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Chennai-2.

+1 CC to Ms. A. Tasmiyah, Advocate sr 47921 (29/08/2017)

+1 CC to Govt. Pleader sr 48451 (29/08/2017)

+1 CC to Mr.L.P.Shanmuga sundaram, Advocate sr 47942 (29/08/2017)

W.P. No.9128 of 2017

and

W.M.P.No.10053 of 2017

SP(07/08/2017)