

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.6568 of 2017

and

W.M.P.No.7065 of 2017

N.Neethipathy

..Petitioner

Vs.

1. The Registrar of Co-operative
Housing Societies
Nandanam, Chennai.
2. The Arbitrator/Co-operative
Sub Registration (Housing),
Salem Co-operative Housing Society Ltd,
No.S.1329,
Salem.
3. The Salem Cooperative Housing
Society Ltd No.S.1329,
Represented by its Secretary
Salem 636 001.

..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the 2nd respondent relating to the summons dated 14.02.2017 in ARC No.223/06-07 and quash the same.

For petitioner	: No appearance
For R1 & R2	: Mr.V.Selvaraj, Additional Government Pleader
For R3	: Mr.L.P.Shanmuga Sundaram, Special Government Pleader

ORDER:

According to the learned counsel for the petitioner, the petitioner is a member of a Cooperative Housing Society called as "Salem Cooperative Housing Society Ltd, S.1329" which

is situated at Salem. The petitioner had availed a loan amount of Rs.2,00,000/- in 2001 repayable in 10 years. Till June 2002, the petitioner had repaid Rs.13,788/-. After that, due to prolonged illness and family circumstances, the petitioner was not able to remit the monthly instalments of the loan. On the request of the petitioner, the society granted time for repayment. On 02.08.2016, the Secretary of the society had issued a notice to remit the dues wherein the due amount was stated as Rs.12,36,131/-. As the amount was huge comparing to the loan amount, the petitioner made a representation dated 03.08.2016 to the Secretary to furnish break up details for Rs.12,36,131/-. While being so, the petitioner received a summon in ARC.No.223/06-07 dated 04.02.2017 from the Arbitrator / Sub Registrar of Cooperative Societies (Housing), Salem, wherein the petitioner has been called upon to appear on 24.02.2017 with regard to repayment. The petitioner further submits that the summon issued under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983 is time-barred under Section 90 (9) of the Act. That apart, there are no details as to how the amount of Rs.11,66,410/- has been calculated. Hence, the petitioner has filed the present writ petition before this Court.

2. The learned Additional Government Pleader would submit that the second respondent has issued the above summon to the petitioner. If the petitioner is aggrieved by the same and having any grievance, the petitioner can make representation to the concerned authority. If any representation is made, the same shall be considered and order will be passed in accordance with law.

3. Heard the learned counsel for the petitioner and learned Additional Government Pleader for the respondents.

4. On perusal of the records, it is seen that the second respondent has issued the impugned order directing the petitioner to appear for enquiry to be conducted on 24.02.2017 with related documents to substantiate the claim. It should be pointed out that this Court by order dated 17.03.2017 granted an interim stay on condition and conditional order passed by this Court has been complied with. As rightly pointed out by the learned Additional Government Pleader, challenging the said impugned order before this Court, without exhausting alternative remedy, could not be entertained, if the petitioner being aggrieved by the said order, the petitioner can approach the authority concerned for the same relief. Hence, at this stage, this court cannot entertain the writ petition. However, the petitioner is given liberty to make a representation before the concerned authority within a period of two weeks from the date of receipt of a copy of this Order. If it is made within the time, the second respondent is directed to consider the

petitioner's representation and pass orders on merits and in accordance with law as expeditiously as possible. Till such process is completed, the respondent shall defer the recovery proceedings.

5. The writ petition is disposed of with above directions. Consequently, connected miscellaneous petition is closed. No costs.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

lok

To

1. The Registrar of Co-operative Housing Societies
Nandanam, Chennai.
2. The Arbitrator/Co-operative Sub Registration (Housing),
Salem Co-operative Housing Society Ltd,
No.S.1329,
Salem.
3. The Secretary,
The Salem Cooperative Housing
Society Ltd No.S.1329,
Salem 636 001.

+1 CC to Mr.L.P. Shanmugasundaram, Advocate sr 48559
+1 CC to Ms. G. Punniyakodi, advocate sr 48777
+1 CC to The Govt. Pleader sr 48802.

WEB COPY

W.P. No.6568 of 2017
and
W.M.P.No.7065 of 2017

PPA (CO)
sp(10/08/2017)