

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.31850 of 2014  
and  
M.P.No.1 of 2014

E.Manickam

..Petitioner

Vs.

1. Co-operative Sub Registrar,  
(Execution)  
The Salem District Central  
Co-operative Bank Ltd.,  
Salem 1.
2. The Subramanianagar  
Co-operative Urban Bank Ltd.,  
No.S.1216, rep. by Manager,  
70/68, Alagapuram Main Road,  
Suramangalam,  
Salem 636 005.

..Respondents

PRAYER: The Writ Petition is filed under Article 226 of Constitution Of India, to issue a Writ of Certiorari, calling for the records of the 1st respondent in Ni.Ma.No.35/2011-12, Thava No.53/2010-11 and quash the auction notice dated 17.10.2014 and pass further orders.

For petitioner : Ms.M.Haseena Begum  
for M/s. J. Franklin

For respondents : Mr.V.Selvaraj  
Additional Government Pleader(R1)  
Mr.L.P.Shanmugasundaram  
Special Government Pleader(R2)

ORDER

This Writ Petition has been filed challenging the impugned auction notice issued by the 1st respondent in Ni.Ma.No.35/2011-12, Thava No.53/2010-11 dated 17.10.2014.

2. The learned counsel for the petitioner submitted that the petitioner obtained a loan of Rs.2,50,000/- from the 1<sup>st</sup> respondent on 10.07.2001, giving the subject property as a collateral security. The petitioner repaid upto a sum of Rs.2,00,000/- towards principal amount and also remitted the interest amount. According to the petitioner, the 1<sup>st</sup> respondent had issued the auction notice, without providing any opportunity to defend his case. Learned counsel further submitted that he has been promptly repaying the loan instalments but due to the sudden loss in the handloom weaving, he was unable to repay the monthly instalments and informed the 1<sup>st</sup> respondent that he will repay the balance loan amount with interest. He also requested the 1<sup>st</sup> respondent to furnish statement of accounts. However, without furnishing the statement of accounts, the respondent has issued the impugned auction notice. Aggrieved by the demand notice, the petitioner has filed this Writ Petition to quash the same.

3. Learned counsel for the respondent submitted that the auction notice has been stayed by the order of this court dated 04.12.2014, on condition that the petitioner shall deposit a sum of Rs.2,00,000/- with the respondent Bank. The said conditional order has been complied with, by the petitioner. Learned Additional Government Pleader further submitted that if the petitioner is aggrieved by the auction notice, he should have approached the 1<sup>st</sup> respondent on appeal, as per the provisions under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988.

4. Heard the rival submissions and perused the material on record.

5. In view of the above submissions of the learned counsel for both the parties and taking into consideration the fact that the petitioner has not availed the appeal remedy available under Section 135 of the Tamil Nadu Co-operative Societies Rules, 1988, this Writ Petition cannot be entertained.

6. Therefore, the Writ Petition is dismissed. However, liberty is granted to the petitioner to approach the 1<sup>st</sup> respondent, in the light of the provisions under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988, to make his objections, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the 1<sup>st</sup> respondent is directed to consider the same on merits and in accordance with law, and pass orders, as expeditiously as

possible. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-  
Asst.Registrar (CS IV )

/true copy/

Sub Asst. Registrar

avr

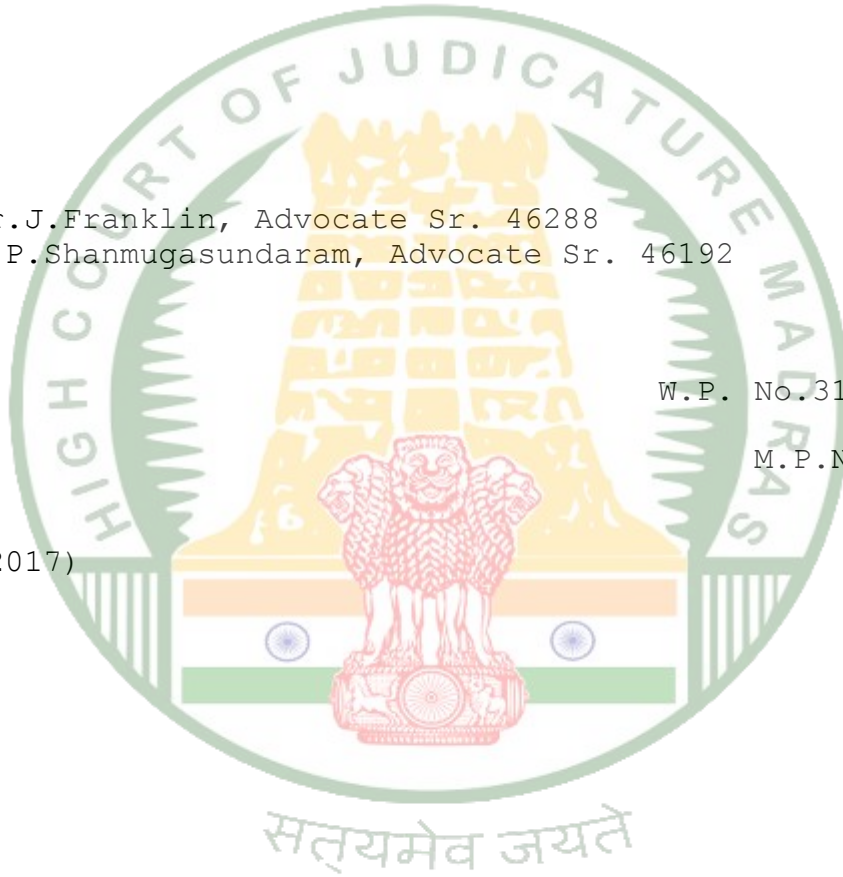
To

+1cc to Mr.J.Franklin, Advocate Sr. 46288

+1cc to L.P.Shanmugasundaram, Advocate Sr. 46192

W.P. No.31850 of 2014  
and  
M.P.No.1 of 2014

AR (IV)  
VR(28/08/2017)



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