

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.11559 of 2017 and
WMP.Nos.12564 & 12565 of 2017

S.Sridhar

..Petitioner

Vs.

1. Government of Tamil Nadu,
Represented by its Secretary to Government,
Food, Cooperation and Consumer Protection Department,
Fort St.George, Chennai-600 009.
 2. The District Registrar / Regional
Sub Registrar(Housing),
Vellore Division, Vellore
 3. The Deputy Registrar (Housing),
Chengam, Thiruvannamalai District.
 4. Thiruvathipuram Cooperative Housing Society,
6/12, East Mada Street,
Thiruvathipuram 604 407,
Cheyyar Taluk, Thiruvannamalai District
- ..Respondents

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India
to issue a writ of certiorarified mandamus calling for the records pertaining

to the impugned notice dated 25.02.2017 in ARC.No.332/07-08 issued by the second respondent and quash the same and consequently directing the respondents to waive the interest and penal interest as per the scheme issued by the first respondent herein.

For Petitioner : Mr.M.Murali

For Respondents : Mr.L.P.Shanmuga Sundaram for R4

: Mr.V.Selvaraj, Additional
Government Pleader for R1 to R3

ORDER:

According to the petitioner, the petitioner's father had obtained a housing loan for Rs.5,00,000/- from the fourth respondent Cooperative Society on 25.08.2003. The instalments for the said loan were paid properly till 21.02.2002. After the sudden death of the petitioner's father, the petitioner was unable to continue to pay the instalments. So, the Society foreclosed the loan account and passed an ex parte decree on 19.05.2015 in A.R.C.No.332/ 07-08 for a sum of Rs.4,97,235/- without issuing a notice to the petitioner. Even after the same, the petitioner made payments and the same were received by the Society. In November 2010, the Society had issued a notice informing of the rebate of interest and penal

interest to all the members of the Society and directing to pay only the principle amount. On knowing the said information, the petitioner approached the Society and represented to extend the rebate to the petitioner's loan amount. But the respondent had not responded to the petitioner's request. While being so, the second respondent has issued a notice dated 25.02.2017 fixing auction of the petitioner's property for a sum of Rs.12,35,657/-. The petitioner states that no award copy was served to the petitioner and hence it was not challenged before the Cooperative Tribunal. After the award as well, the petitioner has paid Rs.7,50,000/- to the fourth respondent Society. Hence, the petitioner has filed this writ petition challenging the notice dated 25.02.2017.

2. According to the learned counsel for the petitioner, on 19.05.2015 the said award has been passed against the petitioner's father who died on 25.10.2009. At the time of passing the award, the petitioner's father named M.A.Sambandhan. Pursuant to the award, the impugned notice has been issued by the respondent against the petitioner, being the legal heir of the aforesaid deceased, M.A.Sambandhan. Hence, the petitioner has filed this writ petition.

3. The learned Additional Government Pleader would submit

that, if the petitioner is aggrieved over the said demand notice, there is an efficacious alternative remedy under Section 152 (1) of the Tamil Nadu Cooperative Societies Act, 1983. So, the grounds raised in the writ petition can also be placed before the appellate authority for the relief and hence, the writ petition is not maintainable before this Court.

4. In view of the efficacious alternative remedy available under Section 152 (1) of the Tamil Nadu Cooperative Societies Act, 1983 for the petitioner, the writ petition is not maintainable.

5. The writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to file an appeal before the appellate authority, if so advised. Consequently, connected miscellaneous petitions are closed. No costs.

सत्यमेव जयते

10.07.2017

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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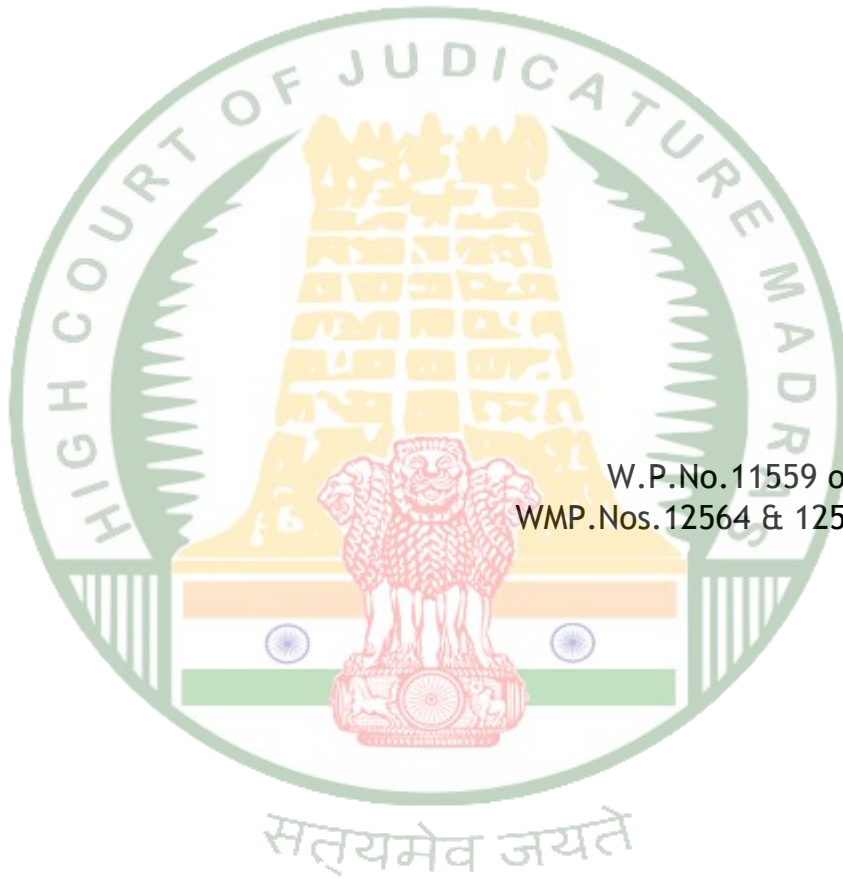
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D.KRISHNAKUMAR. J,

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