

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 21128 of 2017
and
W.M.P Nos.21996 & 21997 of 2017

Jemisa Ali .. Petitioner

Vs.

1. The Deputy Registrar
(Housing Development)
Chengalpet.

2. Nanganallur Co-operative
building Society Ltd., G-1351
No.12, 1st Main Road
Chennai - 61.

.. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the 1st respondent dated 12.04.2017 in Form No.6 and order dated 12.04.2017 in Form No.2 and quash the same and pass such further orders .

For Petitioner : Mr. I. Kowser Nissar

For Respondents : Mr.L.P. Shanmugasundaram

Spl. Govt. Pleader for R1

Ms. T. Girija, Govt. Advocate for R2

सत्यमेव जयते
O R D E R

This Writ Petition has been filed seeking to quash the decree of the 1st respondent dated 12.04.2017 in Form No.6 and Form No.2.

2. The learned counsel for the petitioner would submit that the 1st respondent has passed an order under Rule 116 and 126 of the Tamil Nadu Co-operative Society Rules, 1988 against Tmt.Aziya Begum, S. Siddiq Ali and S. Shanavaz for bringing the property for sale and calling upon them to pay a sum of Rs.1,38,765/-. The said order was passed in execution of the decree dated 18.11.2015. According to the petitioner, the petitioner's mother Aziya Begum expired on 11.06.2012 leaving

behind the petitioner, her husband Sait Bai, Son S.Siddiq Ali, Shahul Hammed and Hakkim as her legal heirs. The said S.Siddiq Ali also died on 14.09.2015 and the whereabouts of the other person Shanavaz is not known to this petitioner. Hence, the consequent order passed by the 1st respondent against a dead person is liable to be set aside.

3. The learned Special Government Pleader appearing for the 1st respondent would submit that on perusal of the records produced by the petitioner, it is seen that the said Aziya Begum had expired on 11.06.2012 and so fairly accepted that the award has been passed against a deceased person. He further submitted that in the event of setting aside the award, this Court may remit the matter to the authority concerned, to proceed afresh, after providing an opportunity to the legal heirs of the deceased Aziya Begum. The learned counsel further submitted that the petitioner is yet to furnish the particulars of the legal heirs of the deceased Aziya Begum to the authorities concerned.

4. It is an admitted fact that the deceased Aziya Begum is the borrower of the Society and as per Section 90 of the Tamil Nadu Co-operative Societies Act, 1983 action was initiated against her but the award has been passed, subsequent to the death of the said Aziya Begum. Hence, the said award has been passed against a dead person and so, as rightly pointed by the learned counsel for the petitioner, the award is liable to be dismissed as abated.

5. In view of the submissions made by the learned counsel for the parties, this Court is inclined to set aside the award passed by the Tribunal dated 12.04.2017 in Form No.6 and Form No.2. However, liberty is granted to the respondents to proceed in accordance with law and pass orders as expeditiously as possible, after providing opportunity to the necessary parties. It is needless to say that the petitioner should furnish all the particulars of the deceased Aziya Begum to the 1st respondent.

7. The Writ Petition is allowed, with the above direction. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

avr

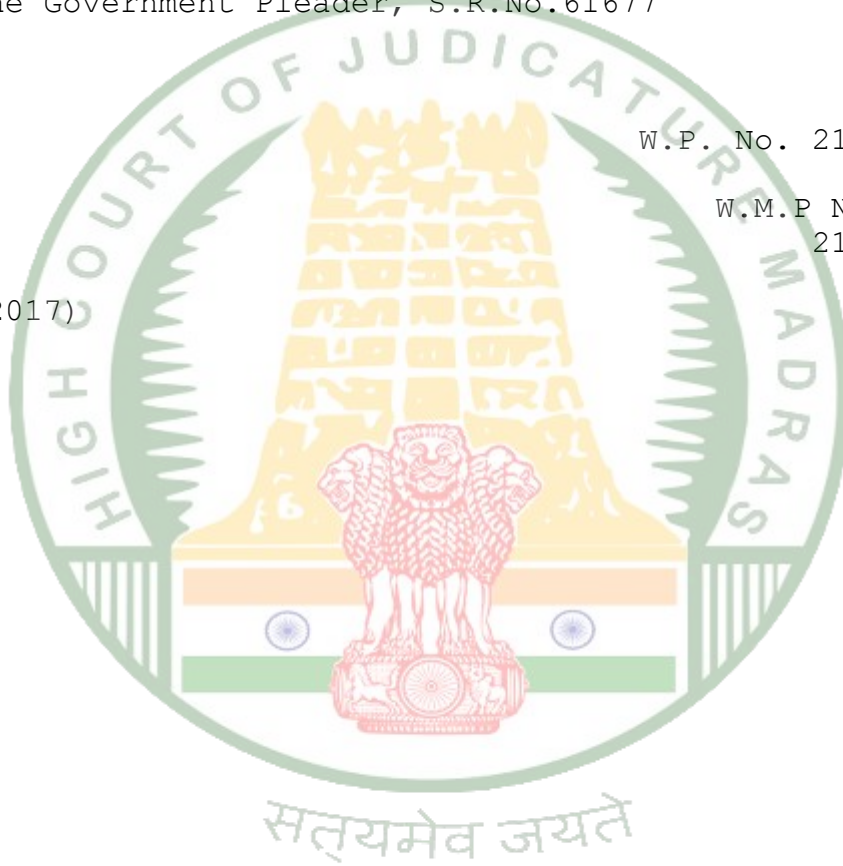
To

1. The Deputy Registrar
(Housing Development)
Chengalpet.
2. Nanganallur Co-operative
building Society Ltd., G-1351
No.12, 1st Main Road
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+1cc to Mr.N.A.Nissar Ahmed, Advocate, S.R.No.60666
+1cc to the Government Pleader, S.R.No.61677

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GN(13/11/2017)



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