

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.23733 of 2017

and

WMP No.24953 of 2017

K.Chinnanan

...Petitioner

Vs.

1. The Registrar of Cooperative Societies,
Kilpauk,
Chennai
2. The Registrar of District(Housing),
Salem Region,
Salem
3. The Secretary,
SL.SPL.137, Namakkal Employees Cooperative
Housing Society,
6/915, SKS Complex,
East to Vairamani Hospital,
Paramathy Road,
Namakkal
4. The Sales Officer,
SL.SPL.137, Namakkal Employees Cooperative
Housing Society,
6/915, SKS Complex,
East to Vairamani Hospital,
Paramathy Road,
Namakkal

...Respondents

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PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of certiorari calling for the entire records relating to the auction notice issued by the fourth respondent in E.P.No.670/2010-2011 in Tha.va.No.4370/2004-05 dated Nil received on 29.08.2017 and quash the same.

For Petitioner : Mr.C.Veeraraghavan

For Respondents : Mr.V.Selvaraj, Additional
Government Pleader

ORDER

By consent of both the parties, the writ petition itself is taken up for final disposal at the admission stage itself.

2. According to the learned counsel for the petitioner, the petitioner borrowed a loan for a sum of Rs.2,00,000/- from the third respondent in 2003. Due to drought, the petitioner was not able to repay the loan instalments regularly. Pursuant to that, the third respondent initiated proceedings in Tha.Va.No.4370/2004-2005 for recovery of the said amount. The petitioner requested the third respondent to furnish statement of account on the above loan transaction. But the third respondent did not considered the plea. Though an award was passed in the year 2010, neither the second respondent nor the third respondent has chosen to send an award copy and the statement of account. Based on the award, the second respondent initiated execution proceedings in E.P.No.670/2010-2011 and without serving a notice to the petitioner, the fourth respondent has issued an auction notice on 29.08.2017 for bringing the petitioner's property to public action. Hence, the petitioner has filed this writ petition before this court.

3. On instruction, the learned Additional Government Pleader has submitted that the petitioner has to pay the total balance amount as on today Rs.6,93,000/- to the petitioner society. If the said amount is paid within the reasonable time, the society will accept the same and this court may pass appropriate orders in this regard.

4. In view of the submissions made by the learned Additional Government Pleader, the learned counsel for the petitioner undertakes that the petitioner will pay Rs.1,15,000/- within a period of two weeks from today and further seeks six months' time, on monthly instalments, to clear all the dues to the respondent society.

5. Further, the learned counsel for the petitioner requested that so far Rs.49,000/- has already been paid to the society. Therefore, the said amount shall be adjusted from the above total balance amount of Rs.6,93,000/-.

6. Hence, the respondent society has to consider the said request made by the petitioner. Further, the learned counsel for the respondents undertakes to defer the auction proceedings till the entire due amount is settled by the petitioner within the six month's time.

7. By recording the aforesaid statements made by both counsel, liberty is granted, in default, it is open to the respondent society to proceed in accordance with law.

8. The writ petition is disposed of with the above terms. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar of Cooperative Societies,
Kilpauk,
Chennai

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2. The Registrar of District(Housing),
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Salem
3. The Secretary,
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4. The Sales Officer,
SL.SPL.137, Namakkal Employees Cooperative
Housing Society,
6/915, SKS Complex,
East to Vairamani Hospital,
Paramathy Road,
Namakkal

+1cc to Mr.C.Veeraraghavan, Advocate, S.R.No. 63874

+1cc to Mr.V.Selvaraj, Advocate, S.R.No. 63975

+1cc to the Government Pleader, S.R.No.64981

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GJ II(CO)
PSI 28/10/2017

सत्यमेव जयते

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