

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.5607 of 2010

and

M.P.1 of 2010

Gandhimathi

.. Petitioner

Vs

1. The State of Tamil Nadu represented by its Principal Secretary to Government, Co-operative, Food and Consumer Protection Department, Secretariat, Chennai.
- 2.The Registrar of Co-operative Societies, N.V.Natarajan Maligai, 170, Periyar E.V.R. High Road, Kilpauk, Chennai 600 010.
3. The Registrar, Co-operative Societies (Housing), No.22, IV Main Road, Gandhi Nagar, Adyar, Chennai 600 020.
4. The Sub-Registrar of the Co-operative Housing Societies, Salem Division, Salem.
5. The Mettur Taluk Co-operative Housing Society, (SLM, HSG.68), Represented by its Secretary, Mettur Dam, R.S.-2, Salem District.

.. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records of the 4th respondent in Ne.Ma.No.927/04-05, Suit No.917/02-03 signed on 04.02.2010 and quash the same and direct the respondents to substantially waive the petitioner's loan amount due to 5th respondent and pass further orders.

For Petitioner : Mr.J.Ramakrishnan
For Respondents : Ms.T.Girija,
Government Advocate for R1 to R4
Mr.L.P.Shanmugasundaram,
Special Government Pleader for R5

O R D E R

This Writ Petition has been filed seeking to quash the order of the 4th respondent issued in Ne.Ma.No.927/04-05, Suit No.917/02-03 signed on 04.02.2010 and direct the respondents to substantially waive the petitioner's loan amount due to 5th respondent.

2. The learned counsel for the petitioner submitted that the petitioner obtained a loan of Rs.1,20,000/- for construction of his house. Due to financial crisis the petitioner was unable to repay the loan instalments properly. Hence, the fourth respondent issued the proceedings in A.R.C. No.917/02-03 dated 22.06.2004 and subsequently issued the impugned auction notice in Ne.Ma.No.927/04-05, Suit No.917/02-03 signed on 04.02.2010. According to the petitioner, she is entitled to waive a substantial amount due to the bank including the interest and penal interest, as per the Government Orders issued periodically and if the same is extended to the petitioner, she will be able to repay the loan and avoid auction proceedings. But, without considering the Government Orders the fourth respondent has issued the impugned auction notice. Challenging the said auction notice the petitioner has filed this Writ Petition.

3. Learned Special Government Pleader would submit that the present writ petition is not maintainable before this Court, since the petitioner is having an efficacious alternative remedy under Section 135 of the Tamil Nadu Cooperative Societies Rules, 1988, she should approach the concerned authority to file an objection or claim. Hence, the writ petition is liable to be dismissed as not maintainable.

4. Heard the rival submissions of the parties and perused the material available on records.

5. Considering the above submissions made by the learned counsel for the parties, this court is not inclined to entertain the prayer of the petitioner and hence, the writ petition is liable to be rejected as not maintainable. However, the petitioner is at liberty to approach the competent authority under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988 within a period of four weeks from the date of receipt of a copy of this order, if so advised.

6. Therefore, the writ petition is dismissed, with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

rkp/avr

To

1. The Principal Secretary to Government,
Co-operative, Food and Consumer
Protection Department,
Secretariat, Chennai.
2. The Registrar of Co-operative Societies,
N.V.Natarajan Maligai,
170, Periyar E.V.R. High Road,
Kilpauk, Chennai 600 010.
3. The Registrar,
Co-operative Societies (Housing),
No.22, IV Main Road, Gandhi Nagar,
Adyar, Chennai 600 020.
4. The Sub-Registrar of the Co-operative Housing
Societies, Salem Division, Salem.
5. The Mettur Taluk Co-operative Housing Society,
(SLM, HSG.68),
Represented by its Secretary,
Mettur Dam, R.S.-2,
Salem District.

+1cc to Mr.J.Ramakrishnan, Advocate Sr. 54466
+1cc to the Government Pleader Sr. 55721

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SSI(CO)
VR(31/8/2017)