

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.14826 of 2017
and
W.M.P.No.16068 of 2017

L. Thaimoon

..Petitioner

Vs.

The President,
Maduranthagam co-operative Building Society
Limited G.1629,
No.50, Hospital Road
(Opp. Hindu High School)
Maduranthagam - 603 306
Kancheepuram District.

..Respondent

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Declaration to declare that the petitioner is not liable to pay any further amount to the respondent society in respect of the Membership No.853 - Loan Account No.539 on its file and consequently direct the respondent to issue No Due Certificate to the petitioner in respect of the Loan Account No.539.

For Petitioner : Mr.P.Ganesan

For Respondent : Ms.L.P.Shanmugasundaram,
Special Government Pleader.

ORDER:

According to the learned counsel for the petitioner, the petitioner availed House building loan for a sum of Rs.1,50,000/- from the respondent society in the year 2000. The petitioner has remitted Rs.1,93,463/- on various dates till the year 2012. In the meantime, the petitioner made a representation to the respondent on 22.09.2012 stating that he is willing to settle the loan amount in one quit. While so, a notification had been published by the department wherein it had

been stated that those who had availed housing loan from the Cooperative Societies throughout the State of Tamil Nadu, can settle the loan amount as on 31.03.2012 by paying 75%, 50% and 25% of the loan amount so as to avail waiver of 100% interest. After publication of the notification, a notice was sent by the respondent seeking payment of the loan. Then, the petitioner filed a writ petition in WP No.29735 of 2012 and by order dated 05.04.2016, this court directed the respondent to consider the petitioner's representation and pass an order within two weeks. The respondent had rejected the request of the petitioner on 15.06.2016. Against the same, another writ petition was filed in WP No.21957 of 2016 before this court and by order dated 27.06.2016, this court directed the petitioner to pay a sum of Rs.1,50,000/- to the third respondent for granting an interim order. The aforesaid amount was paid by the petitioner to the society. According to the petitioner, as on today, the petitioner has paid a sum of Rs.3,43,463/- to the respondent society. In the meantime, this Court in WP.No. 21957 of 2016, by order dated 12.04.2017, directed the respondent to consider the petitioner's representation on merits and in accordance with law within a period of eight weeks. Pursuant to the said order, the respondent again rejected the request of the petitioner. According to the petitioner, the balance amount of Rs.1,51,585/- as directed in the impugned order dated 22.05.2017. According to the petitioner, the petitioner has to pay a sum of Rs.20,000/- to the society, the balance amount around Rs.1,31,000/- is a disputed amount as demanded by the society.

2. The Additional Government Pleader would submit that, the said disputed fact cannot be considered under Article 226 of the Constitution of India. In the counter affidavit itself, it has been specifically stated that the petitioner having efficacious alternative remedy available under section 90 of the Tamil Nadu Cooperative Societies Act. Hence, the writ petition is liable to be rejected.

3. In view of the undertaking made by the learned counsel for the petitioner, the admitted amount of Rs.20,000/- (Rupees Twenty Thousand only) shall be paid by the petitioner to the respondent society within a period of four weeks from the date of receipt of a copy of this Order.

4. In the light of the decision of full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689 and in view of the Section 90 of the Tamil Nadu Cooperative Societies Act, writ petition is not maintainable, liberty is granted to the petitioner to approach the appellate authority to file an appeal under the said Act within a period of four weeks from the date of receipt of a copy of this Order.

5. The writ petition is dismissed with the above observations. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The President,
Maduranthagam co-operative Building Society
Limited G.1629,
No.50, Hospital Road
(Opp. Hindu High School)
Maduranthagam - 603 306
Kancheepuram District.

+1cc to M/s.L.P.Shanmuga Sundaram, Advocate SR.No.43111
+1cc to M/s.P.Ganesan, Advocate SR.No.43015
+1cc to Government Pleader SR.No.43167

W.P.No.14826 of 2017
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SR(CO)
GN(20/07/2017)

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