

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.09.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.6083 of 2004

and

W.P.M.P.No.7140 of 2004

S.Sathiyamarayanan ... Petitioner

- Vs -

1. The Co-operative Sub-Registrar / The Special Officer,
The Dharapuram Co-operative
Primary Agricultural and
Rural Development Bank Ltd.,
Dharapuram, Erode District.

2. T.S.Visweswaran, ... Respondents

Prayer : Writ Petition filed under Article 226 of the
Constitution of India praying to issue a Writ of Mandamus
forbearing the 1st respondent from bringing the house property in
T.S.No.324 of Dharapuram Town, Erode District in public auction
towards the loan due from the 2nd respondent till his share is
earmarked in the final partition.

For Petitioner : Mr.N.Manokaran

For R1 : Mr.L.P.Shanmugasundaram
(Special Government Pleader)

For R2 : No Appearance

ORDER

According to the petitioner, the auction notice was issued
on 09.02.2014. The writ petition is filed for the writ of
mandamus forbearing the 1st respondent from bringing the house
property in T.S.No.324 of Dharapuram Town, Erode District in
public auction towards the loan due from the 2nd respondent till
his share is earmarked in the final partition.

2. At the outset, the prayer in the writ petition is not
maintainable and the petitioner has not challenging any of the
proceedings of the 1st respondent.

3. The learned Special Government Pleader submits that this writ petition is not maintainable in the light of the Full Bench judgment of this Court rendered in the case of K.Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689 wherein the relevant portion of the order is extracted as under:

''In the absence of special circumstances, the Court will not ordinarily exercise power under Article 226 of the Constitution of India when the Act provides for an alternative remedy''.

4. If the petitioner is aggrieved, in the light of the Full Bench judgment of this Court rendered in the case of K.Marappan v. The Deputy Registrar of Co-operative Societies, Namakkal reported in 2006 (4) CTC 689, writ petition is not maintainable.

5. Therefore, the petitioner is having an alternative remedy. Hence, in the light of the above cited judgment, this writ petition is dismissed as not maintainable. It is open to the petitioner to approach before the concerned authority, if so advised, as per law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

To

The Co-operative Sub-Registrar / The Special Officer,
The Dharapuram Co-operative
Primary Agricultural and
Rural Development Bank Ltd.,
Dharapuram, Erode District.

+ 1 CC Government Pleader SR.No.64978

+ 1 CC S. Meenakumari Advocate SR.No.65006

+ 1 CC L.P.Shanmugasundaram, Advocate SR.No.64237

W.P.No.6083 of 2004

and

W.P.M.P.No.7140 of 2004

MN(CO)

VC (09/10/2017)