

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.09.2017
CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.25053 of 2017
and
W.M.P Nos. 26458 & 26459 of 2017

Akbar Ali

.. Petitioner

/Vs/

1. The Registrar of the District
Housing Co-operative Societies,
Deputy Registrar Office,
Salem Zone, Salem District.
 2. The Sales Officer,
A-A-377 Elavamalai Co-operative
Building Society Limited,
No.986, 987, Subramania Street,
Kalingarayanputhur Taluk,
Erode District.
 3. N.Sekar
 4. N.Shanthi
 5. S.Manojkumar
-Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the second respondent auction notification published in "Daily Thanthi", Erode edition on 10.09.2017 at 3.00 p.m in respect of the vacant land and house property to an extent 1305 sq.ft comprised Old Survey No.182/B, Re-Survey No.269/8, Punjai Hectare 0.43.0 acres situated at Sooriyampalayam Village, Erode Taluk and District is illegal and quash the same and pass such suitable orders.

For Petitioner : Mr. M.Saravanakumar

For Respondents : Mr.V.Selvaraj,
Additional Government Pleader
for R1
Mr. L.P. Shanmugasundaram
Spl. Govt. Pleader for R2

O R D E R

This Writ Petition has been filed seeking to quash the auction notification published by the second respondent in "Daily Thanthi", Erode edition on 10.09.2017 at 3.00 p.m in respect of the vacant land and house property to an extent 1305 sq.ft comprised Old Survey No.182/B, Re-Survey No.269/8, Punjai Hectare 0.43.0 acres situated at Sooriyampalayam Village, Erode Taluk and District.

2. Mr.V.Selvaraj, learned Additional Government Pleader takes notice for the first respondent and Mr. L.P. Shanmugasundaram, learned Special Government Pleader takes notice for the second respondent. By consent of both the parties, the writ petition itself is taken up for final disposal.

3. The learned counsel appearing for the petitioner would submit that, the petitioner had purchased the said property for valuable sale consideration from his vendors, who are arrayed as respondents 3 to 5 herein and the above said property had been registered as Doc.No.3423/2001 dated 31.12.2001 at Sub-Registrar, Bhavani, Erode District. Prior to 2001, the respondents 3 to 5 had obtained the mortgage loan from the second respondent society. Since, the loan amount has not been properly paid by the respondents 3 to 5, the second respondent had issued notice in this regard. But, the learned counsel for the petitioner submitted that the petitioner is not aware of the mortgage loan availed by the respondent 3 to 5. Subsequently, the second respondent initiated arbitration proceedings against the respondents 3 to 5. The respondents 1 and 2 had published at "Daily Thanthi dated 10.09.2017 stating that the petitioner's property will be brought to auction which is scheduled to be held on 21.09.2017 at 3.00 p.m at the second respondent's office. Finally, on coming to know the said notification, the petitioner has filed the present Writ Petition.

4. According to the learned counsel for the petitioner, the petitioner had purchased the property during the year 2001 itself. However, the 2nd respondent has initiated the sale auction without giving any notice to the petitioner. But the petitioner submitted that he is willing to settle the due amount, within a prescribed time and requested not to conduct the auction of his property.

5. On instruction, the learned Additional Government Pleader would submit that the petitioner has to pay an arrears of a sum of Rs.9,89,144/-, as on date, to the second respondent

society . If the petitioner undertakes to settle the above amount within a reasonable period, the sale auction scheduled to be conducted on 21.09.2017 by the second respondent will be deferred.

6. Pursuant to the aforesaid submission of the learned counsel for the parties, on instructions, undertakes that the petitioner will pay a sum of Rs.1,50,000/- on or before 21.09.2017 at 3.00 p.m. Thereafter, the balance amount will be paid by the petitioner, in two instalments, viz., 50% on or before 30.11.2017 and the remaining 50% shall be paid by the petitioner on or before 31.01.2018.

7. Considering the undertaking given by the learned counsel for the petitioner, the petitioner is directed to pay a sum of Rs.1,50,000/- on or before 21.09.2017 at 3.00 p.m. Insofar as the remaining balance outstanding amount is concerned, the petitioner shall pay 50% of the amount to the second respondent society on or before 30.11.2017 and the balance 50% to be paid by the petitioner on or before 31.01.2018.

8. In case of any default in payment as per the undertaking given above, liberty is granted to the second respondent Society to proceed with the auction proceedings, in accordance with law. In case condition is complied, the second respondent is directed to defer the sale auction till the conditional order is complied with.

9. The Writ Petition is disposed of, on the above terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-

सत्यमेव जयते Assistant Registrar(CO)

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Sub Assistant Registrar

rkp

To

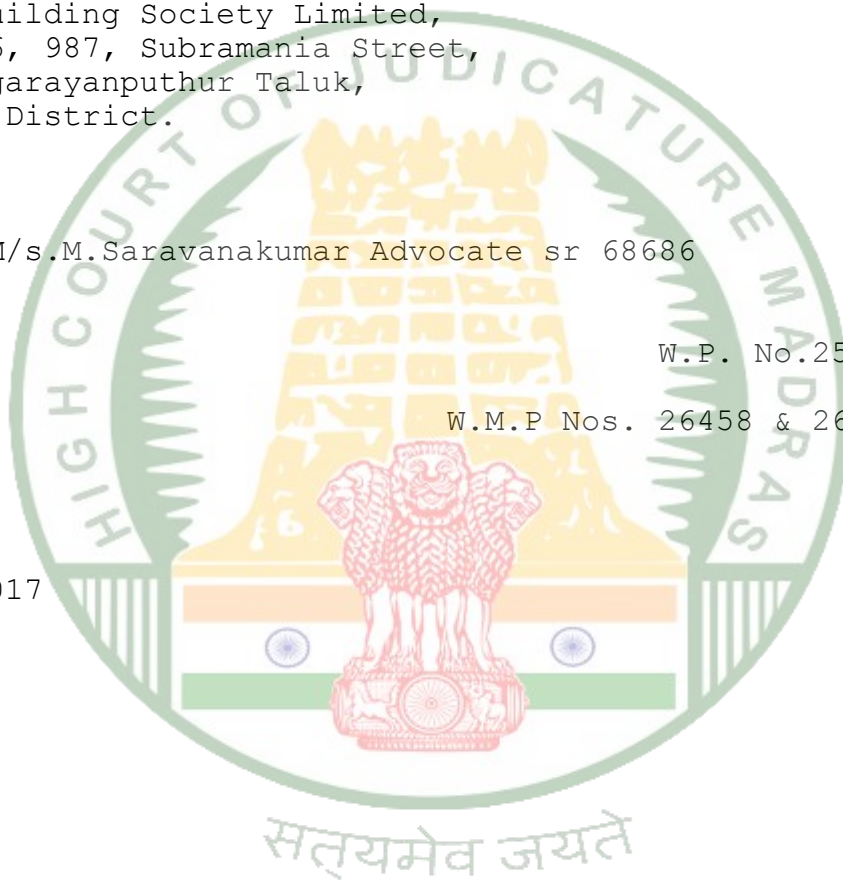
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+1 cc to M/s.M.Saravanakumar Advocate sr 68686

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