

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2017

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THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.26391 of 2014

and

M.P.No.1 of 2014

I.Suyambu

..Petitioner

Vs.

1. The Registrar (Housing),
Office of the Co-operative Housing Societies,
Housing Board Buildings, Nandanam,
Chennai 600 035.
2. The Deputy Registrar (Housing),
Office of the Co-operative Housing
Societies, Chennai Region,
18, Ramanathan Street,
Thiagaraya Nagar,
Chennai 600 017.
3. The President
The Madras Journalists Co-operative
Housing Society Ltd.
(Reg. No.MDS/HSG/155),
Journalists Colony, Tiruvanmiyur
Chennai 600 041.

..Respondents

PRAYER: The Writ Petition is filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records of the third respondent herein in his proceedings R.C.No.P/043/2014 dated 04.08.2014 and quash the same and to direct the first respondent herein to hold an enquiry pertaining to the irregularities committed by the office bearers of the third respondent society in relation to the repayment of loan amount collected among the allottees from its inception.

For Petitioner : No apperance

For Respondents : Mr.V.Selvaraj, Additional
Government Pleader for R1 & R2

: Mr.P.Anbarasan for R3

ORDER

The petitioner has filed this writ petition challenging the order dated 04.08.2014 passed by the third respondent. The matter was posted today. But, no representation for the petitioner.

2. The petitioner was a founder member of "The Madras Journalists Cooperative Housing Society Ltd, Chennai. The petitioner was allotted Plot No.101 to an extent of 1275.5 sq.ft land by the above Society by order dated 19.03.1993 for a total land cost of Rs.63,625/-. The land cost was fully paid by the petitioner in instalments as on 05.11.1998. In order to construct a house in the land, a loan for Rs.3,75,911/- was obtained from a bank in the name of the society. The society had issued a circular on 30.03.2005 to pay the stamp duty for the registration and the petitioner had paid the amount. The outstanding due for the loan was shown as Rs.4,56,370/- as on 31.12.2003, but it was reduced to Rs.2,55,966/- as on 29.11.2004. But, the petitioner was served with a notice dated 31.12.2004 stating that the outstanding amount was Rs.5,74,968/-. The petitioner received another notice dated 12.01.2005 showing the outstanding amount as Rs.5,65,944/-. The amount paid by the petitioner towards loan as on 18.01.2006 was Rs.7,37,077/-. The petitioner received another notice dated 16.07.2009 showing the outstanding amount as Rs.18,75,932/- and also questioning as to why the order of allotment should not be cancelled. Meanwhile, Ind Bank Housing Ltd issued possession notice dated 16.05.2011 claiming Rs.1,75,00,295/- without serving prior notice. The petitioner requested the bank to issue a statement of account by letter dated 23.05.2011. But, so far, the same has not been issued. Aggrieved against the said possession notice, the petitioner preferred proceedings before the Debt Recovery Tribunal I, Chennai in S.A.No.147 of 2011 and obtained an order of stay of all further proceedings after complying with the condition of depositing a sum of Rs.2,50,000/-. Further, the petitioner deposited a sum of Rs.5,00,000/-. Even after the same, the society stated that the outstanding amount was Rs.27,58,071/- as on 30.11.2011. The petitioner received another notice on 27.11.2013 questioning as to why the allotment order should not be cancelled. The petitioner submitted his explanation. The petitioner was informed that the outstanding amount was Rs.38,01,471/- as on 13.01.2014. While being so, a notice of cancellation of allotment was received by the petitioner on 15.09.2014. Following the same, the petitioner made a representation dated 19.09.2014 to the first and second respondents in this regard and requested to direct the third respondent to withdraw the cancellation order and to hold enquiry against the office bearers of the Society. The petitioner has not received a reply

and the third respondent society is taking steps to seal the premises. Hence, the petitioner has approached this Court for the above said prayer.

3. The third respondent has filed counter affidavit. On the basis of the counter affidavit, the learned counsel for the third respondent would submit that the writ petition itself is not maintainable before this Court in view of the full bench judgment made in K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689. Further, the petitioner has an efficacious alternative remedy under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 to file a revision before the authority concerned for the same relief. Hence, the writ petition is liable to be dismissed.

4. From the submissions made by the learned counsel for the third respondent, it is clear that in the light of the above Full Bench Judgment, the writ petition is not maintainable.

5. In view of the said facts and the decision cited supra, the writ petition is dismissed as not maintainable. However, liberty is granted to the petitioner to file a revision under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983, if so advised, within a period of two weeks from the date of receipt of a copy of this Order. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar (Housing),
Office of the Co-operative Housing Societies,
Housing Board Buildings, Nandanam,
Chennai 600 035.
2. The Deputy Registrar (Housing),
Office of the Co-operative Housing
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18, Ramanathan Street,
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3. The President

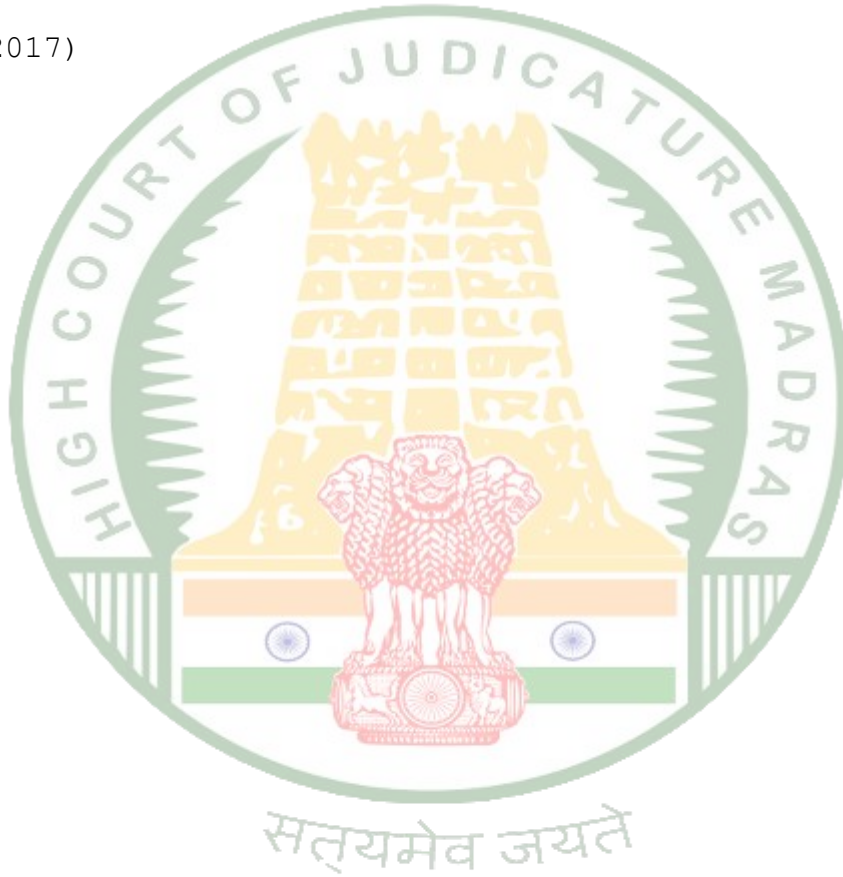
The Madras Journalists Co-operative
Housing Society Ltd.
(Reg. No.MDS/HSG/155),
Journalists Colony, Tiruvanmiyur
Chennai 600 041.

+1cc to Mr.P.Anbarasan, Advocate, S.R.No.46618

+1cc to Mr.B.Diwakaran, Advocate, S.R.No.46937

W.P.No.26391 of 2014
and M.P.No.1 of 2014

PVS (CO)
GN(06/10/2017)



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