

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.08.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 7511 of 2012
and
M.P No.1 of 2012

1.Angammal
2.S.P. Nagarajan .. Petitioners

Vs.

1. The Regional Deputy Registrar of
Co-operative Societies,
Gobitchettipalayam,
Erode District.
2. The Special Officer,
The Sathyamangalam Co-operative
Urban Bank Ltd.,
No.1932, Sathyamangalam,
Erode District.
3. The Sale Officer,
The Sathyamangalam Co-operative
Urban Bank Ltd.,
No.1932, Sathyamangalam,
Erode District. .. Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for the records in respect of the auction sale notice dated 24.02.2012 issued by the 3rd respondent and quash the same and pass any such order.

For Petitioners : M/s. I.C. Vasudevan

For Respondents : Mr. L.P. Shanmugasundaram
Special Government Pleader

O R D E R

This Writ Petition has been filed challenging the auction sale notice dated 24.02.2012 issued by the 3rd respondent.

2. The learned counsel for the petitioners submitted that the petitioners borrowed a loan of Rs.2,00,000/- from the 2nd respondent bank on 02.06.2003. Due to loss in business, the petitioners were unable to repay the loan amount. On 24.02.2012, the 3rd respondent served the impugned auction sale notice, bringing the petitioners' property for auction on 27.03.2012. It is stated that the auction sale proceedings has been initiated based on the award dated 26.09.2006 in ARC No.529/2005 but according to the petitioners no notice was issued before passing of the said award. Among other grounds, the petitioners have mainly raised the ground in the writ petition that the respondents have not followed proper procedures as prescribed in law and that the value of the property is much more than the due amount fixed by the respondents.

3. The learned Special Government Pleader would submit that the petitioners have not placed any material before this Court to show that the market value of the property is higher than the value fixed in the impugned auction notice. In view of the interim order granted by this Court at the time of admission, the sale proceedings has been stalled as on today. Therefore, if the petitioners have any grievance, the petitioners have to approach the competent authority under Section 135 of the Tamil Nadu Co-operative Societies Rules, 1988.

4. The 1st respondent has passed the award in A.R.C. No. 529/2005 on 26.09.2006 and the same was communicated to the petitioners. Although the award has been passed claiming a sum of Rs.3,03,329/- as the balance due, the petitioners did not make any further payments. So, the 1st respondent filed the Execution Petition in EP. No.71 of 2008 and Form-6 notice was issued for conducting the auction of the property. Subsequently, Form-8 was issued by the first respondent as per the Act, following by an advertisement given as per Form-9 and the same was served to the petitioners on 25.02.2012. It is also the plea of the petitioners that the value of the property is much more than the value fixed in the impugned auction sale notice issued by the 1st respondent, without considering the actual market value of the property.

5. Considering the submissions made by both the parties, this Court is of the view that it is open to the petitioners to approach the Sale Officer, for any grievance in fixing the market value of the property, if so advised. Hence, the petitioners can file their claim or objections within a period of two weeks from the date of receipt of a copy of this order. On receipt of said objection, the same shall be considered by the Sale Officer, as expeditiously as possible.

6. The Writ Petition is disposed of, with the above observation. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

avr

To

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Erode District.

+1cc to Mr.L.P.Shanmugasundaram, Advocate, S.R.No.56780
+1cc to the Government Pleader, S.R.No.56891

सत्यमेव जयते

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GN(23/10/2017)

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