

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2017

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.2664 of 2017

Vasantha

W/o late T.K.Chokkalingam

.. Petitioner

-vs-

1. The Registrar

Registrar of Co-operative Societies
No.170, N.V.Natarajan Maaligai
Periyar EVR High Road
Poonamallee High Road
Kilpauk, Chennai 600 010

2. The Vellore Co-operative

Housing Society Ltd., (C-2123)
rep.by its Secretary (Incharge)
No.5, 1-A, Bharathidasan Street
Ramnagar, Near Tollgate
Vellore 632 001 .. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorari, calling for the records on the file of the second respondent in impugned demand notice dated 18.1.2017 and quash the same.

For Petitioner :: Mrs.V.Bhavani Subbaroyan

For Respondents :: Mr.V.Selvaraj

Addl. Government Pleader (Co-op.)

ORDER

The petitioner's late husband, having borrowed a sum of Rs.1,20,000/- in the year 1997 from the second respondent society with a condition to repay the same at the rate of Rs.1805/- per month for a period of 15 years, had committed default after paying some instalments. Subsequently, he also died on 9.7.2013. Consequently, the impugned demand notice has been issued to the petitioner to clear the dues. Challenging the same, the present writ petition has been filed seeking to quash the said notice dated 18.1.2017.

2. It is stated that when the petitioner's husband was

working in Ariyur Cotton Mill, the approached the second respondent society in the year 1997 seeking a housing loan of Rs.1,20,000/-. The same was also sanctioned on 10.11.97 upon accepting the mortgage of the land measuring 1200 sq.ft., at No.9, Fourth Cross Street, Ramsait Nagar, Thorappadi, Vellore District. Although the petitioner's husband during his lifetime had paid back the loan amount by way of instalments, suddenly died on 9.7.2013 leaving behind the petitioner and his family members in the lurch. In the meanwhile, the Mill was also closed during 2010. Since the officers belonging to the second respondent came and informed the petitioner about the arrears of loan amount, a sum of Rs.40,000/- was paid in lumpsum on 1.10.2015. Even at that time also, the petitioner was not informed about the subsequent order passed by any authority. Therefore, being an illiterate, she was kept in dark. In any event, the petitioner is prepared to pay back the arrears of loan amount by way of equated monthly instalments. Hence the impugned notice is liable to be interfered with, she pleaded.

3. Per contra, the learned Additional Government Pleader for the respondents urged this Court to dismiss the writ petition in limine, on the ground that the arbitration proceedings were initiated against the petitioner's husband and finally an award was also passed by the Arbitrator on 20.8.2002. Since the said award has become final, as it was not challenged either by the petitioner's husband during his lifetime or by the petitioner, subsequently several demand notices dated 25.2.2003, 27.6.2003, 2.1.2017 were also issued to the petitioner to clear the arrears of loan.

4. This Court also finds merit in the submissions made by the learned Additional Government Pleader for the respondents. When the award dated 20.8.2002 was passed against the petitioner's husband during his lifetime, it is not known why it was not put to challenge. Therefore, when the award has become final, the writ petition cannot be entertained at this belated stage. However, the learned counsel for the petitioner sought permission for the petitioner to make a representation to the second respondent setting out her plight and the indulgence of the second respondent to consider the same for granting some more time to settle the entire loan amount.

5. This Court, considering the factor that the petitioner, being a widow, is eking out her livelihood as a housemaid and also taking care of her son and daughter, gives liberty to the petitioner to make out a representation to the second respondent within a week's time from the date of receipt of a copy of this order and if such a representation is received, it is for the second respondent to consider the same on humanitarian grounds. With this observation, the writ petition stands disposed of.

Consequently, W.M.P.No.2620 of 2017 is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Registrar
Registrar of Co-operative Societies
No.170, N.V.Natarajan Maaligai
Periyar EVR High Road
Poonamallee High Road
Kilpauk, Chennai 600 010
2. The Secretary (Incharge)
Vellore Co-operative
Housing Society Ltd., (C-2123)
No.5, 1-A, Bharathidasan Street
Ramnagar, Near Tollgate
Vellore 632 001

+1cc to Mr.V. Bhavani Subbaroyan, Advocate, S.R.No.9488

ca(CO)
md(15/02/2017)

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W.P.No.2664 of 2017

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