

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

WP.No.16670 of 2017 and
WMP.No.18041 of 2017

S.Hariraman

...Petitioner

Vs.

1. The Secretary to Government
State of Tamilnadu
Co-operative Department
Fort Saint George, Chennai - 600 009.
 2. The Secretary
Palace Nagar Co-Operative Housing Society Ltd.,
S.1565, Palace Towers, Cherry Road,
Salem - 637 001.
 3. The Registrar of the District
(Housing) Co-Operative Society
Salem Region, Salem - 16
 4. The Co-Operative Sub-Registrar,
(Housing)
Salem - 2.
- ...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 from the 3rd respondent Ni.Ma.No.495/2016-2017 auction notice dated 18.04.2017 and quash the same and forbearing the 3rd respondent from proceedings Ni.Ma.No.495/2016-2017 dated 18.04.2017 auction notice.

For Petitioner : Mr.D.Dhayalan
For RR1, 3 & 4 : Mr.V.Selvaraj
Additional Government Pleader
For R2 : Mr.L.P.Shanmugasundaram
Special Government Pleader

ORDER

The petitioner filed the writ petition challenging the main auction notice dated 18.04.2017, issued by the third respondent.

According to the petitioner, the petitioner borrowed loan amount of Rs.2,55,750/- from the second respondent and paid back an amount of Rs.2,76,295/- to the second respondent. Even though the petitioner paid the entire amount to the second respondent at various dates and receipts were also issued by the second respondent for the payment of the aforesaid amount, without considering the fact that the amount has been settled, the petitioner has been issued the impugned notice. Therefore, the impugned order is liable to be quashed.

2. The learned Additional Government Pleader would submit that an award has been passed against the petitioner in ARC No.1597/04-05, dated 18.08.2016 and the said award has become final. Therefore, at this stage, the petitioner cannot dispute the award amount. Further, the petitioner if being aggrieved, has to file an objection or claim under the provisions of the Tamilnadu Cooperative Society Act and rules. Without approaching the authority concerned, the petitioner filed the present writ petition before this Court. Hence the writ petition is liable to be rejected by considering the aforesaid submissions.

3. The petitioner challenged Form-6 Auction notice before this Court. Pursuant to the award passed against the petitioner, the third respondent has issued the aforesaid impugned notice, which the petitioner has challenged. According to the petitioner, the entire due amount has been settled to the respondent society.

4. This Court is of the firm view that the petitioner cannot agitate the matter now, when the said award has become final. If the petitioner had settled the amount, the petitioner can file objection or claim before the authority under Rule 135 Tamilnadu Cooperative Societies Rules. Therefore no prima facie case has been made out by the petitioner before this Court and as such, the writ petition is liable to be dismissed.

5. In view of the facts and circumstances of the case, the writ petition is dismissed with liberty to the petitioner to make a representation or objection to the authorities concerned. No costs. Consequently, connected miscellaneous petition is also closed.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

gsa

To

1. The Secretary to Government
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(Housing)
Salem - 2.

+1cc to M/S.L.P. Shanmugasundaram, Advocate Sr. 46196
+1cc to Mr.D.Dhayalan, Advocate Sr. 46733
+1cc to Government Pleader, Sr. 46569

WP.No.16670 of 2017 and
WMP.No.18041 of 2017

SJ(CO)
VR(19/07/2017)

सत्यमेव जयते

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