

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.16898 of 2017
and
W.M.P.No.18364 of 2017

M.Muthusamy

..Petitioner

Vs.

1. The Deputy Registrar,
Housing Society Ltd,
Vellore Region, Vellore.
2. The Special Officer,
Dharmapuri Taluk Co-operative Housing
Society Ltd.,
NAHSG-53, No.25/3B,
Narasimha Achari Street,
Dharmapuri.
3. The Secretary,
Dharampuri Taluk Co-operative Housing
Society Ltd.,
NAHSG-53, No.3/549,
Royal Nagar, Collectorate Post,
Dharamapuri.

..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 1st respondent pertaining to the auction notice dated undated and quash the same and direct the respondents to dispose of the letter of the petitioner dated 19.06.2017.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.V.Selvaraj

Additional Government Pleader

ORDER:

According to the petitioner, the petitioner availed a housing loan of Rs.1,50,000/- from the third respondent society for constructing a house. Due to poor income of the petitioner, the instalments were not paid properly. Meanwhile, the State Government had passed a Government Order for waiver of interest for loans availed from Cooperative Societies. But, not considering the petitioner's request to benefit under the scheme, the first respondent initiated an Arbitration Proceedings against the petitioner in ARC.No.372/2010-11. Subsequently, an award was passed in ARC.No.377 of 2010 against the petitioner for an amount of Rs.3,52,700/- without issuing any notice. Based on the above Government Order for waiver of interest for loans, the petitioner requested the respondents to furnish a statement of account to avail benefit under the said scheme and also requested to give considerable time for settling the outstanding amount. However, request of the petitioner has not been considered. Though the petitioner was willing to settle the outstanding amount after deducting the waiver amount, the first respondent had issued the impugned auction notice fixing the date of auction as 06.07.2017 for the amount of Rs.3,52,700/-. With regard to the notice, the petitioner has again made a representation to the respondents on 19.06.2017 to furnish a statement of account. Since no action has been taken on the said representation, the petitioner has filed the present writ petition challenging the said impugned notice.

2. On instruction, the learned Additional Government Pleader for the respondents would submit that an award was passed against the petitioner on 31.01.2016. Thereafter, the petitioner made a request to the respondents to grant time to settle the outstanding due amount and as such, the respondents granted time. As the petitioner had not settled the amount inspite of time granted by the respondents, an auction notice has been issued.

3. The learned counsel for the petitioner would submit that the petitioner is willing to pay the outstanding due amount within a time frame fixed by this Court subject to furnishing of statement of account by the first respondent to avail benefit under the same scheme for waiver of interest for lands.

4. In view of the above submissions made by the parties concerned, at this stage, to meet the ends of justice, this court is inclined to direct the first respondent to furnish statement of account to avail benefit under the said scheme. In the meantime, the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of the third respondent society within a period of four weeks from the date

of receipt of a copy of this Order. Till then, the impugned sale proceedings is deferred.

5. Any default in payment by the petitioner, the respondent is permitted to proceed with the auction notice. In case of the petitioner's complying with the above direction, the first respondent is directed to furnish a statement of account to the petitioner and proceed in accordance with law.

6. The writ petition is disposed of with above directions. Consequently, connected miscellaneous petition is closed. No costs.

7. It is needless to say that the petitioner shall submit a copy of the said representation along with the copy of this order.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar,
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Vellore Region, Vellore.
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3. The Secretary,
Dharampuri Taluk Co-operative Housing
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NAHSG-53, No.3/549,
Royal Nagar, Collectorate Post,
Dharamapuri.

+1 cc to Mr.M.Selvam Advocate sr 46756
+1 cc to M.V.Selvaraj Advocate sr 46778
+1 cc to the Government Pleader sr 46904

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