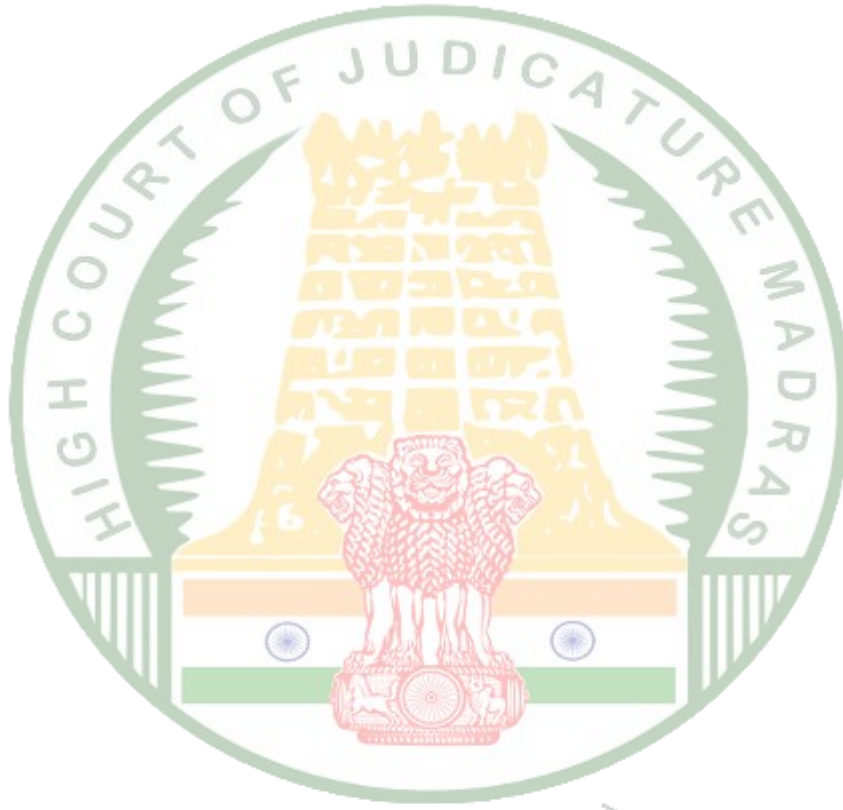




सत्यमेव जयते

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.08.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 29803 of 2014

and

M.P. No. 1 of 2014

K. Sivakumar

... Petitioner

Vs.

1. The Co-operative Sub Registrar/
Sales Officer,
KK 99, Mettur Dam Town
Co-operative Society Ltd.,
Mettur Dam-1,
Salem District.

2. The Secretary,
KK 99, Mettur Dam Town
Co-operative Society Ltd.,
Mettur Dam-1,
Salem District.

... Respondents

Prayer : This Writ petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records in sale notice 09.10.2014 in respect of the Loan No.553 on the file of the 1st respondent herein and quash the same and consequently direct the respondents herein to consider the petitioner payment schedule and to pass further orders.

For Petitioner : Mr.B. Manoharan

For Respondents : Mr. V. Selvaraj,
Addl. Government Pleader for R1

Mrs. T.P. Savitha for R2

O R D E R

The Petitioner has filed the present Writ Petition challenging the impugned sale notice 09.10.2014 in respect of the Loan No.553 on the file of the 1st respondent and consequently direct the respondents herein to consider the petitioner payment schedule.



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2. The learned counsel for the petitioner would submit that the petitioner and his wife jointly availed a housing loan of Rs.2,00,000/- from the second respondent society, by mortgaging their property. The petitioner repaid a considerable amount. Based on the announcements of the Government regarding waiver of co-operative loans, the petitioner was under the impression that his loan has also been waived and hence did not pay the balance amount. Whiles, the 1st respondent issued the impugned sale notice demanding a sum of Rs.8,24,842/- and fixing the date of sale on 26.11.2014. According to the petitioner, he is entitled for waiver of the loan amount and interest. But, without giving proper credit to the amount already paid by him, the impugned notice has been issued, demanding the said amount. Hence, the petitioner submitted his representation dated 20.10.2014, seeking to re-schedule his loan amount of Rs.2,00,000/- and that the same will be repaid by him in three instalments. Since no orders have been passed the petitioner has filed this writ petition seeking the aforesaid prayer.

3. Per contra, the learned counsel for the respondents would submit that the present writ petition is not maintainable before this Court, since the petitioner is having an efficacious alternative remedy under Section 135 of the Tamil Nadu Cooperative Societies Rules, 1988. If the petitioner has any grievance, he should approach the Sale Officer to file his objection or claim. Hence, the writ petition is liable to be dismissed as not maintainable.

4. Considering the above submissions made by the learned counsel for the parties, this court is not inclined to entertain the prayer of the petitioner and hence, the writ petition is liable to be rejected as not maintainable. However, the petitioner is at liberty to approach the Sale Officer, under Rule 135 of the Tamil Nadu Cooperative Societies Rules, 1988, within a period of four weeks from the date of receipt of a copy of this order, if so advised. On receipt of the objection or claim, the respondent shall proceed with the same, in accordance with law.

5. Therefore, the writ petition is dismissed, with the above directions. Consequently, connected miscellaneous petition is closed. No costs.

-sd/-

Assistant Registrar

/ TRUE COPY /

Sub-Assistant Registrar

avr



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To

1. The Co-operative Sub Registrar/
Sales Officer,
KK 99, Mettur Dam Town
Co-operative Society Ltd.,
Mettur Dam-1,
Salem District.

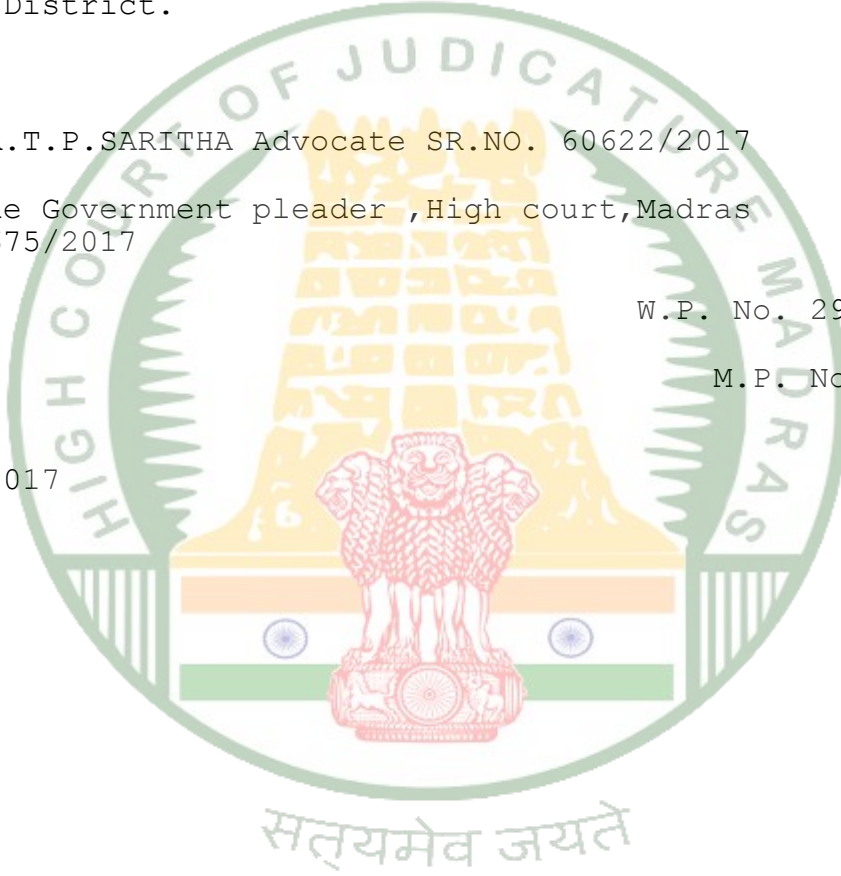
2. The Secretary,
KK 99, Mettur Dam Town
Co-operative Society Ltd.,
Mettur Dam-1,
Salem District.

1 cc to MR.T.P.SARITHA Advocate SR.NO. 60622/2017

1 cc to The Government pleader ,High court,Madras
SR.NO. 61675/2017

W.P. No. 29803 of 2014
and
M.P. No. 1 of 2014

br[co]
RD 21/11/2017



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