

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.32519 of 2015
and
WMP.Nos.1 & 2 of 2015

A.C.Muralidharan

... Petitioner

Vs.

1. The Deputy Registrar (Housing),
of Cooperative Societies,
Vellore Region, Vellore

2. The Secretary,
Ranipet Cooperative House
Building Society Ltd.,
No.19, Javuli Kadai Street,
Ranipet.

3. A.C.Anusuya Devi

.... Respondents

PRAYER : The Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the entire records in pursuant to the auction notice issued by the first respondent vide CEP.No.603/2007-08, ARC.No.1264/2002-03 dated 04.09.2015 and quash the same.

For petitioner : Mr.T.P.Prabakaran

For respondents : Mrs.T.Girija,
Government Advocate for R1

: Mr.L.P.Shanmuga Sundaram
Special Government Pleader for R2

: No appearance for R3

ORDER:

According to the learned counsel for the petitioner, the petitioner's mother borrowed a loan from the second respondent society. As the same was not paid properly, an award was passed in Suit No.1264/02-03 to pay Rs.10,10,585/- with interest. In continuation of the award, the first respondent issued an auction notice on 22.01.2010 in respect of the above

property wherein the date of auction had been fixed as 03.03.2010. Then, the petitioner issued a legal notice through counsel stating that the proposed auction had not been advertised properly. The said auction was later cancelled and the second respondent issued a letter dated 10.03.2010 to pay the entire due as early as possible. But, due to the fact that the rights of three brothers and one sister along with mother is yet to be determined for the mortgaged property and a partition suit had been filed before a Civil Court for determining individual right over the same joint family property, the petitioner is unable to take steps to discharge the due amount. While being so, another auction notice dated 04.09.2015 has been issued by the first respondent fixing the date of auction as 14.10.2015. Challenging the above notice, the petitioner has filed this writ petition before this court.

2. Per contra, based on the counter affidavit filed by the second respondent, the learned Special Government Pleader would submit that the award was passed on 14.09.2007 under Section 90 of the Cooperative Societies Act, 1988. Pursuant to the award, the impugned auction notice has been issued by the first respondent. Pursuant to the interim stay granted by this Court by order dated 13.10.2015, in which the auction proceedings has been deferred. Moreover, if the petitioner is aggrieved by the impugned notice, he can approach the competent authority under Section 135 of the Cooperative Societies Act, 1988. Hence, this writ petition is liable to be dismissed.

3. Heard, the learned counsel for both sides and perused the materials.

4. In view of the above submissions made by the learned Special Government Pleader, pursuant to the interim order granted by this Court, has deferred the auction proceedings. Hence, the petitioner who is aggrieved by the impugned auction notice has to make his objection or representation before the concerned authority as contemplated under provision under Section 135 of the Tamil Nadu Cooperative Societies Act, 1988. Therefore, the writ petition is liable to be dismissed.

5. Accordingly, the writ petition is dismissed. However, liberty is granted to the petitioner to approach before the concerned authority for the above grievance. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Deputy Registrar (Housing),
of Cooperative Societies,
Vellore Region,
Vellore

2. The Secretary,
Ranipet Cooperative House
Building Society Ltd.,
No.19, Javuli Kadai Street,
Ranipet.

+lcc to Mr.T.P.Prabakaran, Advocate, S.R.No.49801

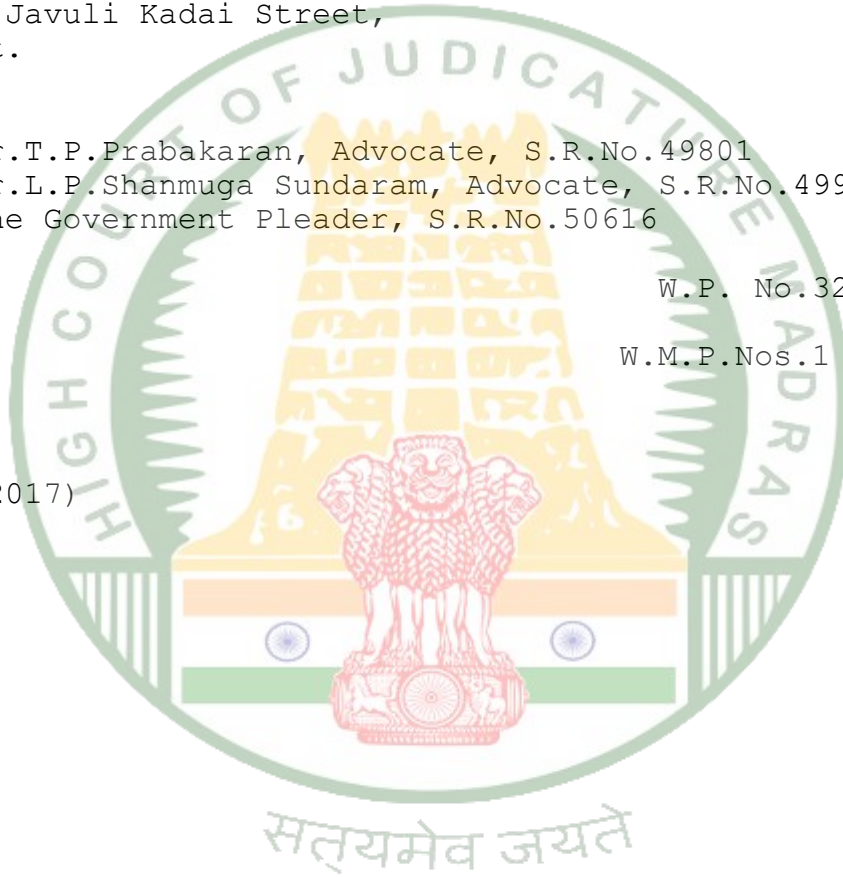
+lcc to Mr.L.P.Shanmuga Sundaram, Advocate, S.R.No.49987

+lcc to the Government Pleader, S.R.No.50616

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and

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CS IV
CA(04/09/2017)



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