

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2017

CORAM:

THE HON'BLE MR.JUSTICE K.K.SASIDHARAN

AND

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.A.No.319 of 2013 and

MP.No.1 of 2013

The Secretary

S.1719, Ayothiyapattnam Housing Co-operative

Society Ltd.,

K.Mu.Nagar, Ayothiyapattnam

Salem 636 103.

...Appellant/3rd Respondent

Vs

1.N.Baskaran

2.The Registrar of the District Co-Operative
Societies (Housing) Salem Region,
Salem.

3.The Joint Registrar of Housing Co-Operative
Society Ltd., Salem Region,
Salem.

...Respondents/Petitioner

Prayer:- Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order passed in W.P.No.25506 of 2011 dated
09.01.2012.

WP.No.25506 of 2011:Writ Petition under Article 226 of the
Constitution of India, praying for issuance of a Writ of
Certiorarified Mandamus to Call for records of the 2nd
respondent pertaining to the decree of award dated 12.6.2010
made in ARC No.4916/04-05 in 3rd respondent references Vu.No.694
and quash the same and direct the 3rd respondent to extend the
concession of waiver of interest with modified monthly
instalments with normal interest

For Appellant : Mr.R.Nalliyappan

For Respondents: Ms.A.Arulmozhi for R1

Ms.A.Girija,

Government Advocate [for R2 and R3]

JUDGMENT

This intra court appeal is directed against the order dated 09 January 2012 in W.P.No.25506 of 2011, by which the learned Single Judge allowed the writ petition filed by the first respondent, subject to the condition that he shall pay a sum of Rs.81,893/- to the Society, in accordance with the demand made in the notice dated 08 December 2010.

2. The learned counsel for the appellant contended that in addition to the amount of Rs.81,893/-, the first respondent was bound to pay the principal amount. According to the learned counsel, the notice dated 08 December 2010 was issued indicating the interest amount payable, besides the principal amount. The learned Judge took it as one demanding the entire arrears and that was the reason for allowing the writ petition. According to the learned counsel, the petitioner is liable to pay the principal amount also in addition to the interest amount of Rs.81,893/- and as such the impugned order is liable to be set aside.

3. The learned counsel for the respondent submitted that total amount payable was Rs.81,893/-. The first respondent, immediately after the order passed by the writ court, paid the entire amount. It was only thereafter, the appellant filed this intra court appeal.

4. The only question that arises for consideration is as to whether the learned Single Judge was correct in directing the first respondent to pay the sum of Rs.81,893/- in full and final satisfaction to the claim made by the Ayothyapattnam Housing Co-operative Society Ltd.

5. The entire controversy relates to the demand made by the Society by notice 08 December 2010. The said notice indicates that the first respondent has to pay a sum of Rs.81,893/- and in case of such payment, he would receive the concession of Rs.78,616/- announced by the Government. In case, the amount of Rs.78,616/- is calculated along with Rs.81,893/-, it would make the position very clear that the principal and interest was only Rs.1,60,509/-.

6. In view of the statement of accounts as indicated in the notice dated 08 December 2010, the learned Single Judge was perfectly correct in directing the first respondent to pay Rs.81,893/-. We do not find any error or illegality in the said order warranting interference in this intra court appeal.

In the upshot, we dismiss the intra court appeal. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dna/gms

To

- 1.The Registrar of the District Co-Operative Societies (Housing) Salem Region, Salem.
- 2.The Joint Registrar of Housing Co-Operative Society Ltd., Salem Region, Salem.

+1 cc to Mr.A.Arulmozhi Advocate sr 45484
+2 ccs to Government Pleader sr 45884

W.A.No.319 of 2013

sr(co)
aa10/08/2017

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