

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.48 of 2013
& M.P.No.1 of 2013

Velayudam

.. Petitioner

Vs.

1.The Deputy Registrar (housing)
Vellore Zone and District, Vellore.

2.The Sale Officer
Office of the Deputy Registrar (housing)
Vellore Division, Vellore.

3.The Secretary
K.K.329, Krishnagiri Cooperative
Housing Society Limited
Represented by its Secretary, Krishnagiri.

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 10.10.2012 made in C.M.A.No.43 of 2010 on the file of the Principal District Court-cum-Co-operative Tribunal, Krishnagiri, in confirming the award dated 16.08.2004 made in A.R.C.No.278 of 2002-2003 on the file of the Deputy Registrar, Housing, Vellore District Zone.

For Petitioner : Mr.V.Lakshminarayanan

For Respondents : No Appearance

ORDER

The Civil Revision Petition is filed against the fair and decretal order dated 10.10.2012 made in C.M.A.No.43 of 2010 on the file of the Principal District Court-cum-Co-operative Tribunal, Krishnagiri, in confirming the award dated 16.08.2004 made in A.R.C.No.278 of 2002-2003 on the file of the Deputy Registrar, Housing, Vellore District Zone.

2. The petitioner borrowed a sum of Rs.1,27,725/- from third respondent on the security of his immovable property. He executed a mortgage deed mortgaging the said property. The third respondent called upon the petitioner to pay a sum of Rs.1,75,478/- due and payable by him as he committed default in payment of amount borrowed by him. The petitioner did not pay the amount. The third respondent initiated arbitration proceedings before the first respondent/Deputy Registrar.

3. The first respondent issued notice to the petitioner and after considering the materials on record, passed an award directing the petitioner to pay a sum of Rs.1,75,478/- together with interest to the third respondent and further held that if the petitioner fails to pay the amount, the third respondent can bring the property for sale.

4. Against the said award dated 16.08.2004 made in A.R.C.No.278 of 2002-2003, the petitioner has filed C.M.A.No.43 of 2010 on the file of the Principal District Court-cum-Co-operative Tribunal, Krishnagiri.

5. The petitioner before the Co-operative Tribunal contended that no notice was given to the petitioner by the first respondent in arbitration proceedings and without notice, an exparte award was passed. The third respondent has not given any credit to the amounts paid by the petitioner.

6. The Tribunal considering the materials on record held that notices were sent to the petitioner by the first respondent and the dates mentioned in the judgment passed in C.M.A.No.43 of 2010

and the petitioner received the same. The petitioner also appeared before the third respondent on 25.11.2003 and gave a statement that he would pay the amounts due in instalments. Again, notices were sent to the petitioner, after receiving the notices, he did not appear before the first respondent and put forth his case. After passing of an award in A.R.C.No.278 of 2002-2003, the petitioner again appeared before the third respondent and agreed to pay the amounts. The Tribunal took note of the fact that the petitioner did not dispute the signature found in the notices acknowledging the receipt of the said notices and held that the petitioner did not pay the instalments in time and the third respondent is entitled to adjust the amount paid towards interest and penal interest as per the terms contained in the loan transaction.

7. Against the said judgment dated 10.10.2012 made in C.M.A.No.43 of 2010, the present Civil Revision Petition is filed by the petitioner.

8. Heard the learned counsel for the petitioner and perused the materials available on record. Though notice was served on the respondents and their names were printed in the cause list, there is

no representation on behalf of the respondents either in person or through counsel.

9. The contention of the learned counsel for the petitioner is that no notice was given to the petitioner by the first respondent in arbitration proceedings and the amounts paid by the petitioner to the third respondent were not given credit by the third respondent. Both these contentions are without any merits. Before the Tribunal, the documents were produced to show that notices sent by the first respondent were received by the petitioner. He acknowledged the receipt of notices. After receipt of the said notices, the petitioner did not appear before the first respondent, but went to the third respondent and gave a statement that he would pay the amounts in instalments on or before 31.03.2004 without fail.

10. The Tribunal considering these documents rejected the contention of the petitioner that the notices sent by the first respondent were not served on him. As far as payment made by the petitioner is concerned, the Tribunal found that the first respondent gave credit to the said amounts towards interest and penal interest as per the terms and conditions. The Tribunal has given valid and

cogent reason for dismissing the appeal filed by the petitioner. There is no illegality or irregularity in the order of the Tribunal dated 10.10.2012 warranting interference by this Court.

11. The learned counsel for the petitioner seeks time to pay the amounts. On such request, the petitioner is granted four months time to pay the amount from the date of receipt of a copy of this order, failing which, it is open to the respondents to bring the property for sale.

12. The learned counsel for the petitioner contended that this Court has granted stay directing the petitioner to deposit 25% of award amount with the Deputy Registrar, Housing, Vellore and the said amount i.e., Rs.45,000/- was deposited by the petitioner.

13. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

09.10.2017

Index : Yes/No
dm/kj

To

- 1.The Principal District Judge
cum Co-operative Tribunal
Krishnagiri.
- 2.The Deputy Registrar, Housing
Vellore District Zone.
- 3.The Sale Officer
Office of the Deputy Registrar (housing)
Vellore Division, Vellore.
- 4.The Secretary
K.K.329, Krishnagiri Cooperative
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Represented by its Secretary, Krishnagiri.



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V.M.VELUMANI, J.

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