

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.03.2017

CORAM :

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.25132 of 2016

WMP.21527/2016

C.Narasimhan

.. Petitioner

/versus/

- 1.The Registrar of Co-operative Societies(Housing),
Tamil Nadu Housing Board,
Nandanam, Chennai 600 035.
 - 2.The Deputy Registrar of Co-operative Societies(Housing),
Salem Region,
East Garden Road,
Fairlands, Salem 16.
 - 3.The President,
Mettur Industries Employees Co-operative
Industrial Housing Society Ltd., K.K.128,
Puduchampalli, Mettu Dam-3,
Salem District.
 - 4.The Secretary,
Mettur Industries Employees Co-operative
Industrial Housing Society Ltd., K.K.128,
Puduchampalli,
Mettur Dam-3,
Salem District.
- .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned notices dated 12.01.2016 in Loan Account No.8 and Loan Account No.685 issued by the 4th respondent and to quash the same and consequently direct the respondents to return all the documents with necessary endorsements furnished by the petitioner's father Chinnapaiyan son of Rama Gounder at the time of sanctioning the loan forthwith.

For Petitioner
For Respondents

:Mr.C.Prabakaran
:Mrs.T.Girija, GA for R1 and R2
Mr.L.P.Shanmugasundaram, Spl.G.P.
for R3 and R4

ORDER

The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned notices dated 12.01.2016 in Loan Account No.8 and Loan Account No.685 issued by the 4th respondent and to quash the same and consequently, direct the respondents to return all the documents with necessary endorsements furnished by the petitioner's father Chinnapaiyan, Son of Rama Gounder, at the time of sanctioning the loan forthwith.

2. According to the petitioner, the petitioner's father R.Chinnapaiyan has borrowed a Housing Loan to the tune of Rs.2,00,000/- from the third respondent-Society under the loan Account No.8 and to the tune of Rs.4,50,000/- under the Loan Account No.685 in the years 1999 and 2003 respectively. The said loan amounts were repaid by the petitioner's father up to the year 2008. Due to some financial crisis, there was a default in payment of the loan amount to the third respondent Society. In the mean time, the petitioner's father died on 19.02.2010. Therefore, the petitioner has paid the entire loan amount as directed by the third respondent-Society. But, the 4th respondent Society issued impugned notice on 12.01.2016 demanding the petitioner to pay due loan amount of Rs.1,96,564/- and Rs.7,62,786/- respectively. On receipt of the said notice, the petitioner made an explanation on 10.02.2016 thereby informed that the petitioner has discharged the entire loan amount and requested to return the documents, which were furnished for security of the loan, but no action was taken by the fourth respondent Society. Therefore, the petitioner has filed the present writ petition for the aforesaid prayer.

3. The learned Special Government Pleader appearing for the respondents would submit that the petitioner has not discharged the loan amount. Therefore, demand notice has been issued to the petitioner and the petitioner has also submitted his explanation. However, no final order has been passed by the respondents-Society.

4. According to the petitioner, there is a scheme issued by the Government for waiver of interest and penal interest. Only on the basis of that scheme, the petitioner made a representation to the respondents-Society. Further, the petitioner will make a fresh explanation to the respondents 3 and 4 Society by narrating the benefit of the scheme issued by the Government.

5. In view of the making fresh representation to the respondents 3 and 4 Society, there is no prejudice caused to the respondents Society by considering the extent of benefit for granting waiver of loan interest and penal interest to the borrower under the Government Scheme.

6. In the light of the above submissions, a liberty is granted to the petitioner to make a fresh explanation to the third respondent Society, within a period of two weeks from the date of receipt of a copy of this order. On receipt of such explanation, the third respondent Society is directed to consider and pass appropriate orders, on merits and in accordance with law, within a period of three months thereafter. It is needless to say that the third respondent Society not take any coercive steps against the petitioner, till the final order is passed by the third respondent-Society.

7. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

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To

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+1CC to Government Pleader SR.No.16540

+1cc to L.P.Shanmugasundaram, Advocate SR.No.16324

W.P.No. 25132 of 2016

WMP No.21527/2016

RR(CO)

GN(07/04/2017)