

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.01.2017

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.No.11120 of 2003

M.Yamunadevi

.. Petitioner

.. Vs ..

1. M/s. George Town Benefits Society Ltd.,
No.40, Adiappan Naicken Street,
Chennai - 600 079.
2. M/s.ALWIN & Company,
Govt. & Public Auctioners,
Real Estate & House Property Agents,
C.J. Complex, 2nd Floor,
No.149, Thambu Chetty Street,
Chennai - 600 001.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the Auction Sale Notice dated 15.04.2003 passed by the first respondent and quash the same as illegal, improper, unreasonable, arbitrary and against the rule of law and natural justice so far as the petitioner is concerned and thereby direct the first respondent to receive the True Balance Amount on installment basis from the petitioner.

For Petitioner : No Appearance

For R-1 : Mr.L.Rajasekar

For R-2 : Mr.V.Jayaprakash Narayanan,
Special Government Pleader

O R D E R

When the matter was taken up for hearing on 04.01.2017, there was no representation for the petitioner. Hence, the matter was directed to be posted today i.e., on 06.01.2017 under the caption "For Dismissal". Today also, when the matter is taken up for hearing, there is no representation for the petitioner. Hence, this Court perused the records and heard Mr.L.Rajasekar, learned counsel appearing for the first

respondent and Mr.V.Jayaprakash Narayanan, learned Special Government Pleader, appearing for the second respondent.

2. It is the case of the petitioner that her father viz., Muniappan was the owner of the property at No.7/1, New West Street, Avvai Nagar, Choolaimedu, Chennai, and that her father died leaving behind as his legal heirs her mother and two siblings. After the death of her father, the legal heirs including the petitioner herein obtained a simple mortgage loan on the house property from the first respondent for Rs.1,50,000/-. According to the petitioner, they were regularly paying the monthly EMI. But suddenly, the first respondent had brought the property to auction through the second respondent. Therefore, the writ petitioner has filed the present writ petition before this Court.

3. At the time of admission, this Court by order dated 11.04.2003 in W.P.M.P.No.13952 of 2003 in W.P.No.11120 of 2003, had passed the following order:-

"Interim stay on condition that the petitioner deposits one lakh (Rupees one lakh only) to the credit of sale notice dated 15.04.2003 within four weeks from today, failing which, the order of interim stay shall stand automatically vacated. Notice."

4. It is not known whether the petitioner had complied with the above said interim order. However, George Town Benefits Society Limited is not a State within the meaning of Article 12 of the Constitution of India and it is merely a company incorporated under the Indian Companies Act. Therefore, no writ can be maintained against the first respondent. That apart, the transaction between the petitioner and the first respondent is contractual in nature and the remedy is only before the appropriate Civil Court.

5. In the result, this petition is devoid of merits and accordingly, the Writ Petition is dismissed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

Jrl

To

The Section Officer

ER Section, High Court, Madras.

+1cc to Government Pleader sr.2057

W.P.No.11120 of 2003

gjII(co)

SS(3/2/2017)

<https://hcservices.ecourts.gov.in/hcservices/>