

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 24527 of 2012
and
M.P. No.1 of 2012

R. Alagiriraj

..Petitioner

Vs.

1. The Sub Registrar of
Co-operative (Housing)
Fairlands, Salem.
2. The Salem NGGO's Co-operative
Housing Building Society Ltd.
(No.S1325) Advaita
Ashram Salai, Fairlands
Salem - 636 016.
3. The Additional Registrar of
Co-operative Societies/
Special Officer, P.B.No.486
Rithurten Salai, Vepery
Chennai - 600 007.
4. The Secretary to Govt.
Housing and Urban Development
H.Co.S Department
Fort St. George
Chennai - 600 009.

..Respondents

(R3 & R4 impleaded as per Order of Court dated 05.02.2013 in
M.P.No.1 of 2013)

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned circular of the 3rd respondent vide proceedings in Na.Ka. No. 7777/2011-12/Ka.pa.pi dated 11.05.2012 and quash the same in so far as clause 9 and 10 of the circular is concerned and consequently direct the respondents 1 and 2 herein to receive a sum of Rs.7,65,367/- from the petitioner towards the total settlement of the loan account , calculated as per G.O.Ms. No.98 Housing and Urban Development dated 20.04.2012 and return the

original title deeds by cancelling the mortgage and pass such further orders.

(Prayer amended as per Order of Court dated 05.02.2013 in M.P.No.2 of 2013)

For Petitioner : Mr. G. Arul Murugan
For Respondents : Ms. T. Girija
Government Advocate R1, R3 & R4

Mr.L.P.Shanmuga Sundram
Spl. Government Pleader R2

O R D E R

The petitioner has filed this writ petition seeking to quash the circular of the 3rd respondent in Na.Ka. No. 7777/2011-12/Ka.pa.pi dated 11.05.2012, in so far as clause 9 and 10 of the circular is concerned and consequently direct the respondents 1 and 2 to receive a sum of Rs.7,65,367/- from the petitioner, towards the total settlement of the loan account, calculated as per G.O.Ms. No.98 Housing and Urban Development dated 20.04.2012 and return the original title deeds by cancelling the mortgage.

2. The learned counsel for the petitioner submitted that the petitioner approached the 2nd respondent society, for a housing loan of Rs.4,90,000/- by mortgaging his property measuring an extent of 5668 sq.ft., in S.No.58/1 Thailnoor Village, Salem District. However, the 2nd respondent released a sum of Rs.3,43,000/-. Due to several difficulties the petitioner could not pay the instalments regularly. Whiles, based on the complaint of the 2nd respondent, suddenly a case was registered in Cr.No.6 of 2008 on the file of the CCIW CID, Salem for offences u/s 408, 467, 471, 477A and 120B of IPC, against 33 persons including the petitioner. In the meantime, Government issued orders in G.O. Ms. No. 98 dated 20.04.2012, introducing settlement scheme in respect to the repayments of the defaulted housing loans. According to the petitioner, he is entitled to avail the waiver scheme announced in the said Government order. Hence, the petitioner approached the 2nd respondent and requested to permit him, to settle the loan account by paying a sum of Rs.7,65,367/-, extending the benefits of the aforesaid Government order. Since the request of the petitioner was not considered, the petitioner has filed the present Writ petition.

3. Reiterating the submissions made by the 2nd respondent in the counter affidavit, the learned Additional Government Pleader submitted that the petitioner has obtained the loan for construction of a house but he has put up a yarn

mill and he has committed breach of contract. Further, he submitted that the petitioner has approached this Court, without exhausting the appeal remedy. Hence, in the light of the decision rendered by the larger Bench of this Hon'ble Court in the case of K.Marappan v. Deputy Registrar of Cooperative Societies, (2006) 4 MLJ 641, this writ petition is not maintainable and is liable to be dismissed.

4. Considering the submissions and in the light of the decision rendered by the larger Bench judgment of this Hon'ble Court in the case of K.Marappan, this Court is not inclined to entertain this writ petition. However, liberty is granted to the petitioner to file an appeal, if so advised, before the competent authority under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983, within a period of four weeks from the date of receipt of a copy of this order.

5. The Writ Petition is disposed of, with the above observation. Consequently, the connected M.P is closed. No costs.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

avr

To

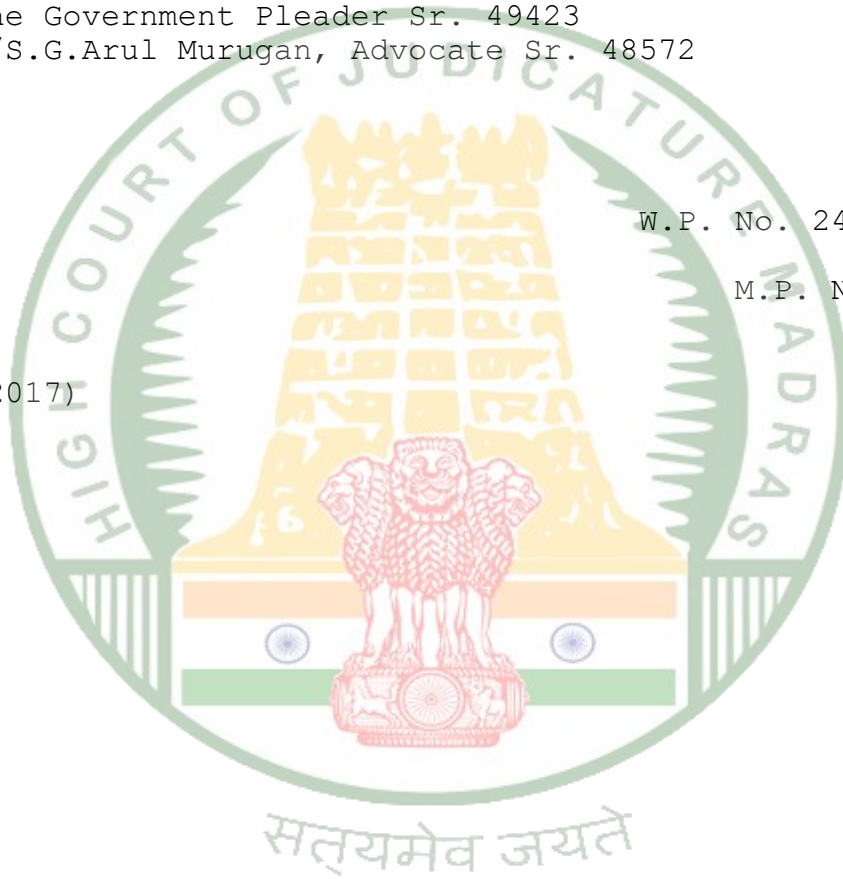
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+1cc to the Government Pleader Sr. 49423
+1cc to M/S.G.Arul Murugan, Advocate Sr. 48572

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PPA(CO)
VR(03/10/2017)



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