

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.07.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.24781 of 2012

and

M.P.No.2 of 2012

N.V.Balakrishnan

... Petitioner

Vs.

1.The Registrar,
The Registrar of Co-operative Societies,
Chennai.

2.The Joint Registrar,
Co-operative Societies,
Vellore.

3.The Deputy Registrar,
Co-operative Societies,
Thirupathur, Vellore District.

4.The Sales Officer / The Special Officer,
Gudiyatham Co-operative Primary
Agricultural and Rural Development Bank,
Gudiyatham.

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records in respect of the attachment order dated 17.04.2012 in R.R.A.No.19/2001-2002 and the consequential order of auction sale notice dated 14.06.2012 in R.R.A.No.19/2001-2002 passed by the 4th respondent herein in respect of the petitioner's house property bearing survey No.69/7 in D.No.20/B at R.Kollapalli Village Modikuppam Post, Gudiyatham Taluk and quash the same and consequently direct the respondent to follow the Government Rules by waiving the interest and other penal interest as per the proceedings of the Secretary of the 4th Respondent Bank in the year 2009 dated nil.

For Petitioner : Mr.D.Rajagopal

For Respondents 1 to 3 : Ms.T.Girija
Government Advocate

For 4th Respondent : Mr.P.S.Sivashanmughasundaram

O R D E R

The petitioner has filed this writ petition challenging the impugned order dated 17.04.2012 in R.R.A.No.19/2001-2002 and the consequential order of auction sale notice dated 14.06.2012 in R.R.A.No.19/2001-2002 passed by the 4th respondent herein in respect of the petitioner's house property bearing survey No.69/7 in D.No.20/B at R.Kollapalli Village Modikuppam Post, Gudiyatham Taluk and quash the same and consequently direct the respondent to follow the Government Rules by waiving the interest and other penal interest as per the proceedings of the Secretary of the 4th Respondent Bank in the year 2009 dated nil.

2. According to the petitioner, the petitioner made objection to the sale officer who is a 4th respondent herein under Rule 135 of the Tamil Nadu Co-operative Societies Rules. It is submitted by the petitioner that the objection under Rule 135 of the Tamil Nadu Co-operative Societies Act, is pending before the 4th respondent. Without considering the said objections and interim applications, the 4th respondent has issued the auction notice to sell the schedule properties is not correct under the said provisions of the Act and Rules and hence the petitioner has filed the present writ petition before this Court.

3. According to the petitioner, as per conditional interim stay granted by this Court, he has complied with the order and the said petition is still pending and therefore, in the light of the above, this Court directs the 4th respondent to consider the said objection.

4. The learned Government Advocate would submit that the petitioner has already paid a sum of Rs.2,00,000/- and complied with the conditional order passed by this Court. The 4th respondent has filed the petition stating that the petitioner is not entitled to avail concession. The objection has been submitted for non-payment of loan amount and the property was auctioned on 14.06.2012. The said auction notice was issued in accordance with the provisions of Act and Rules. Therefore, the contention of the petitioner are not correct. It is submitted by the petitioner that the objection under Rule 135 of the Tamil Nadu Co-operative Societies Act, is pending before the 4th respondent. Without considering the said objections and interim applications, the 4th respondent has issued the auction notice to sell the schedule properties is not correct under the said provisions of the Act and Rules.

5. In pursuant to the interim order granted by this Court and subsequently, the said order complied by the petitioner, the auction was not conducted on that date as per the schedule.

Therefore, in the light of the above, there is no further orders required under the present writ petition.

6. In view of the above, this writ petition is disposed of with a direction that the petitioner shall pay a further sum of Rs.2,00,000/- to the 4th respondent within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the 4th respondent shall consider petitioner's representation dated 05.09.2012 submitted under Rule 135 of the Tamil Nadu Co-operative Societies Rules as expeditiously as possible preferably, within a period of twelve weeks. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssn

To

The Registrar,
The Registrar of Co-operative Societies,
Chennai.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.53214

+1cc to Mr.P.S.Sivashanmughasundaram, Advocate, S.R.No.53799

W.P.No.24781 of 2012
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CS IV
CA(30/08/2017)

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