

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :31.07.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P. No.18784 of 2010
and
M.P.1 of 2010

B.Sundaramoorthi

.. Petitioner

Vs

1. The District Registrar,
O/o.The Deputy Registrar of Housing,
Salem Region, Salem.

2.Gandhi Nagar Co-operative Housing Building
Society Limited, S 938 rep. by
Its Secretary, Attur, Salem District.

.. Respondents

PRAYER : This Writ Petition is filed Under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned sale notice dated 22.06.2010 made in E.P. No.160/2010-2011 in ARC No.3291/03-04 issued under Form 9 of Rule 126 (2) of the Tamil Nadu Co-operative Societies Rules, 1988, quash the same and consequently direct the respondents to grant the benefit of "non-forming sector-Special Loan Settlement Scheme" to the petitioner and pass such further or other suitable order.

For Petitioner : Mr.N.Manokaran

For Respondents: Ms.T.Girija,

Government Advocate for R1

Mr.A.Arumugam, for R2

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O R D E R

This Writ Petition has been filed challenging the impugned sale notice dated 22.06.2010 in E.P.No.160/2010-11 in ARC No.3291/03-04 issued under Form 9 of Rule 126 (2) of the Tamil Nadu Co-operative Societies Rules, 1988.

2. Learned counsel for the petitioner submitted that the petitioner obtained a mortgage loan of Rs.3,00,000/- on 31.08.2000 from the second respondent. Although the petitioner has paid a sum of Rs.60,000/-, without giving proper credits, the second respondent referred the matter to the first respondent, for non payment of dues. On 13.05.2010, the first respondent passed an award directing the petitioner to pay a sum of Rs.8,47,329/-. The learned counsel further submitted that the petitioner expressed his willingness to pay the due amount, if the respondents extend the benefit of "non-forming sector special loan settlement scheme". Since, the same was not considered, the petitioner challenges the impugned notice dated 22.06.2010, by filing this Writ Petition. According to the petitioner, the petitioner is ready and willing to settle the due amount, if the loan interest waiver scheme announced by the Government in G.O. Ms. No.327 dated 27.02.2006, is extended to him. Further, the impugned sale auction notice is not issued in compliance with the Rule 126 (2) (d) (i) (ii) (iv) (vi), Rule 126 (2) (e) (i), Rule 126 (f) (i) (ii), Rule 126 (2) (h) etc. Moreover, the sale notice has also not been served to the petitioner and the respondents have not followed the procedures contemplated under the rules. Therefore, the present writ petition is filed seeking the aforesaid prayer.

3. Per contra, the learned counsel for the second respondent would submit that the conditional interim order dated 17.08.2010 granted by this Court has not been fully complied with. He further submitted that in view of the interim order granted by this Court, the sale proceedings was not conducted. If the petitioner is aggrieved, he has to approach the concerned authority under Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988. So the writ petition is liable to be dismissed.

4. Heard the rival submissions made by the learned counsel and perused the materials available on record.

5. It is an admitted fact that the petitioner is challenging the impugned sale auction notice in this writ petition. However, pursuant to the interim order granted by this Court, the sale was not conducted by the respondent. Further, in the light of Rule 135 of the Tamil Nadu Co-operative Societies Rules, 1988, the petitioner should have filed his objection or claim before the concerned authority instead of approaching this Court. In view of the above said rule the writ petition cannot be entertained and the same is liable to be dismissed. However, liberty is granted to the petitioner to approach the respondents, within a period of four weeks from the date of receipt of a copy of this order, if so advised.

6. The writ petition is disposed of, with the above directions. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

rkp/avr

To

1. The District Registrar,
O/o.The Deputy Registrar of Housing,
Salem Region, Salem.
- 2.Gandhi Nagar Co.operative Housing Building
Society Limited, S 938
Its Secretary, Attur, Salem District.

+1 cc to Mr.N.Manokaran Advocate sr 54936
+1 cc to Mr.A.Arunmugam Advocate sr 54240
+1 cc to the Government Pleader sr 55719

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and
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ks(co)
aa25/09/2017

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