

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.19335 of 2010

and

M.P.No.1 of 2010

R.R. Venkatesan

.. Petitioner

Vs.

1. The Sale Officer, Co-operative
Sub Registrar (Housing)
Kancheepuram Circle,
Kancheepuram.

2. Kancheepuram Taluk Co-operative
Housing Society Ltd.,
CGT/ HSG-41
No.90-A Kamatchi Amman
Sannathi Street,
Kancheepuram.

... Respondents

PRAYER: This Writ Petition is filed under Article 226 of Constitution Of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings of the 1st respondent in CEP No.47/05-06, in respect of the auctioning the property on 25.08.2010, quash the same and pass such further orders.

For petitioner : Ms. S. Sengkodi

For respondents : Ms. T. Girija, Govt. Advocate

ORDER

This Writ Petition has been filed seeking to quash the proceedings of the 1st respondent in CEP No.47/05-06, in respect of the auctioning the property on 25.08.2010.

2. According to the petitioner, he has challenged the auction sale notice on the ground that the 2nd respondent has not furnished a copy of the award passed under Section of the Tamil Nadu Co-operative Societies Act, 1983 and that he had no knowledge about the award passed by the respondents. Only after receipt of the sale notice dated 09.02.2010, the petitioner was aware of the decree passed against him. Therefore, the

petitioner has filed this writ petition to set aside the impugned sale notice, which has been issued based on the award.

3. The learned Government Advocate appearing for the respondents would submit that the petitioner is having an efficacious alternative remedy, under Section 135 of the Tamil Nadu Cooperative Societies Rules, 1988, to approach the concerned authority to file an objection or claim instead of approaching this Court. Hence, the writ petition is liable to be dismissed, as not maintainable.

4. The petitioners have filed the present writ petition, challenging the sale auction notice passed by the 1st respondent. Admittedly, the award has been passed on 29.01.2005 and as per the impugned sale notice the auction has been fixed on 25.08.2010. On perusal of records, it is seen that this Court has granted interim injunction restraining the respondents from bringing the property for sale, on condition that the petitioner shall pay a sum of Rs.50,000/-. According to the petitioner, the conditional order has been complied with. Subsequent to the interim injunction, no auction was conducted.

5. In view of the aforesaid facts, nothing survives for further adjudication in this case. However, under Section 135 of the Tamil Nadu Co-operative Societies Act, 1983, the petitioner can make a claim or objection before the concerned authority. Therefore, the writ petition is disposed of, with liberty to the petitioner to file a claim petition or objection before the appropriate authority, if so advised, within a period of four weeks from the date of receipt of a copy of this order. If no such claim petition is filed within the prescribed period, it is open to the respondents to proceed in accordance with law.

6. The writ petition is disposed of, on the above terms. Consequently, the connected Miscellaneous petition is closed. No costs.

Registry is directed to return the original impugned order, after obtaining a copy of the same.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

avr

To

1. The Sale Officer, Co-operative
Sub Registrar (Housing)
Kancheepuram Circle,
Kancheepuram.

+1cc to Mr.S.Rajinikanth, Advocate SR.No.50194
+1cc to the Government Pleader, S.R.No.51052

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and
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KS (CO)
GN(18/09/2017)



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