

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No. 34887 of 2003
and
WMP No.42400 of 2003

Mariya Soosai

..Petitioner

Vs.

The Secretary
Salem Urban Cooperative
Housing Society Ltd.,
No.25, Kitchipalayam Branch
Salem- 636 001.

...Respondents

PRAYER: This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the respondent in Publication Proc. C.E.P. No.324/2000-01 & A.R.C. No.362/2000-2001 and dated nil and quash the same as illegal, incompetent, arbitrary and to further direct the respondent to accept the one time settlement payment of the petitioner vide notice dated 14.10.2003 and pass such further orders.

For Petitioner
For Respondent

: Mr. V. Raghavachari
: Mr. M.S. Palaniswamy

ORDER

The petitioner has filed this writ petition seeking to quash the Publication Proc. C.E.P. No.324/2000-01 & A.R.C. No.362/2000-2001 issued by the respondent and to further direct the respondent to accept the one time settlement payment of the petitioner vide notice dated 14.10.2003.

2. The learned counsel for the petitioner submitted that the petitioner obtained financial assistance of Rs.38,500/-, from the respondent society, by mortgaging his land property situated in S.No.29/1B at Thirumanoor Village, Vazhapadi Taluk. Due to some difficulties the petitioner could not pay the instalments regularly. Without considering the payments already made by the petitioner and his willingness to

settle the dues as One Time Settlement by availing the exemption granted by the Government the respondent has published the impugned notice fixing the date of auction as 17.09.2003, without giving any notice to the petitioner. However, the public auction was subsequently postponed. Hence, the petitioner submitted a request notice dated 14.10.2003 to the respondent stating about the boosted up amount and requesting to relieve him from indebtedness. Since his request was not considered, the petitioner has filed the present Writ petition.

3. The learned counsel for the respondent would submit that the petitioner having an efficacious alternative remedy under Section 135 (1) of the Tamil Nadu Cooperative Societies Rules, 1988 should approach the competent authority, namely, The Registrar of Co-operative Housing Societies, Salem to file an objection or claim instead of approaching this Court. If any such appeal is made, the same would be considered as per law.

4. This Court has granted interim injunction and so the auction was not conducted. Consequently, the auction notice challenged herein has now become infructuous and nothing survives in this writ petition. However, as rightly pointed out by the learned counsel for the respondent society, if the petitioner has any grievance, he has to approach the competent authority, as per the said Rules.

5. In view of the above, the petitioner is granted liberty to approach the competent authority, under Section 135 of the Rules, within a period of four weeks from the date of receipt of a copy of this order. If no such representation is made, the respondent shall proceed in accordance with law.

6. Therefore, the Writ Petition is disposed of, with the above direction. Consequently, the connected M.P is closed. No costs.

सत्यमेव जयते

Sd/-

Deputy Registrar

/true copy/

Sub Asst. Registrar

avr
To

The Secretary
Salem Urban Cooperative
Housing Society Ltd.,
No.25, Kitchipalayam Branch
Salem- 636 001.

+ 1 cc to Mr. M.S. Palaniswamy, Advocate, SR.50703

+ 1 cc to Mr. V. Raghavachari, Advocate, SR.50419

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SAI (CO)
NR 25/09/2017



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