

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.34888 of 2003 and
WPMP.No.42401 of 2003

N.K.Selvaraj

..Petitioner

Vs.

The Secretary,
Salem Urban Cooperative
Housing Society Ltd.,
No.25, Kitchipalayam Branch,
Salem-636001.

..Respondent

PRAYER:

The Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records on the file of the respondent in proceedings in Claim No.2625/2002-2003 and dated 16.04.2003 and quash the same as illegal, incompetent, arbitrary, and to further direct the respondent to consider the representation made by the petitioner dated 11.06.2003.

For Petitioner : No appearance

For Respondent : Mr.M.S.Palanisamy

ORDER:

According to the petitioner, a loan for a sum of Rs.2,50,000/- was obtained from the respondent society by depositing the title deeds of the petitioner's property as additional security in order to expand business operation. The petitioner paid the instalments regularly until an amount of Rs.1,42,001.70/- had been paid. After that, due to the slump in the tourism department, the petitioner could not repay the monthly instalments. Based on the default in repayment, the respondent initiated recovery proceedings and without serving notice on the petitioner, an ex parte award was passed in Proc.No.2625/2002-2003 dated 16.04.2003. Only when the petitioner approached the respondent for seeking one time settlement option for repayment, the above fact was informed. Then, the petitioner requested the respondent by letter dated

11.06.2003 seeking for the loan details so as to pay the remaining outstanding amount as one time settlement. But the request was rejected by the respondent. It was later found that some of the petitioner's payments were not credited into the loan account. Besides, without appreciating the bonafide request of the petitioner, the respondent issued a notice on 25.08.2003 seeking to auction the petitioner's property which was mortgaged for availing the loan. Hence, the petitioner has filed this writ petition before this Court.

2. The learned counsel for the respondent relying upon the decision of the Full Bench of this Court in the case of K. MARAPPAN VS. DEPUTY REGISTRAR OF COOPERATIVE SOCIETIES, NAMAKKAL reported in 2006 (4) CTC 689, has stated that this writ petition is not maintainable against the respondent society. The learned counsel has further stated that the aggrieved petitioner can approach the competent authority for the relief sought for in the present writ petition. Further, the representation of the petitioner is still pending before the respondent and the same shall be considered in accordance with law.

3. In view of the submissions made by the learned counsel for the respondent, the writ petition is dismissed as not maintainable with liberty to the petitioner to work out his remedy before the competent authority. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

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

+1cc to M/s.M.S.Palaniswamy, Advocate in sr.no.50702

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VGII(CO)
NR 22/08/2017