

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P.No.36669 of 2003 and
WPMP.No.1904 of 2007

1.P.Palani

2. Rani

..Petitioners

Vs.

1. The State of Tamil Nadu,
rep.by its Secretary to the
State of Tamil Nadu,
Housing and Rural Development Department,
Chennai - 600 009.

2. Co-op Sub Registrar/Arbitrator,
Housing Society,
Tirukoilur

3. The Regional Deputy Registrar,
(Housing Cum Registrar of District),
Cuddalore Region,
Cuddalore

..Respondents

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 in respect of order No.1187/2001-2002 dated 24.01.2003, 13.03.2004 and 13.05.2003 issued by the second and third respondents and quash the same and direct the respondents to accept the due instalment as per the agreement entered with the second respondent.

For Petitioners : Vedandham Srinivasan
For Respondents : M/s.R.Thenmozhi Shivaperumal
for R2 : Mrs.T.Giriya,
Government Advocate for R1 & R3

ORDER:

According to the petitioners, the Sub Registrar / Arbitrator has wrongly impleaded the petitioners' son, Mr. Gangai Amaran, giving a new Registration No.1585 for the petitioners' elder son, who was a member, taking loan for house construction, is no more alive and died on 04.08.2002.

2. The petitioners are challenging the award dated 24.01.2003 and consequential impugned notice dated 13.05.2003. The award was passed under Section 90 of the Tamil Nadu Cooperative Societies Act, 1983. Consequent to that, the respondents have issued the impugned notice under Form No.6 of the Tamil Nadu Cooperative Societies Rules, 1988.

3. According to the petitioners, the arbitrator passed the impugned order, without impleading the necessary parties, has passed the impugned order. Hence, the petitioners have filed this writ petition before this Court.

4. The learned Government Advocate has brought to the notice of this Court that there was no interim order granted by this Court in the writ petition. Further, if the petitioners are aggrieved by the award passed by the arbitrator, while there is an alternative remedy available to file an appeal before the concerned authority, without exhausting the same, filing a writ petition before this Court is not maintainable and is liable to be dismissed.

5. In view of the facts and circumstances of the case and by taking into consideration the contention of the learned Government Advocate, the writ petition is liable to be dismissed as not maintainable.

6. However, it is open to the petitioners to approach before the concerned authority to file an appeal under the provisions of the Act, if so advised.

7. The Writ petition is dismissed with above observations. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-

Deputy Registrar (Judicial)

/true copy/

Sub Asst. Registrar

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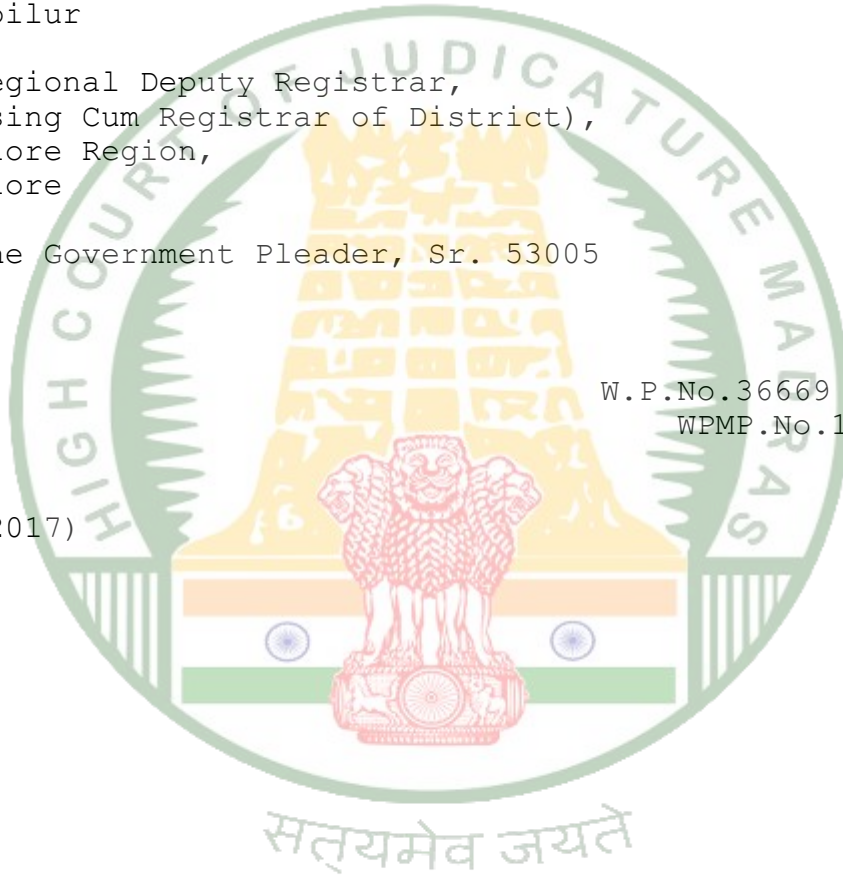
To

1. The Secretary to the
State of Tamil Nadu,
The State of Tamil Nadu,
Housing and Rural Development Department,
Chennai - 600 009.
2. Co-op Sub Registrar/Arbitrator,
Housing Society,
Tirukoilur
3. The Regional Deputy Registrar,
(Housing Cum Registrar of District),
Cuddalore Region,
Cuddalore

+1cc to the Government Pleader, Sr. 53005

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SSI (CO)
VR(22/09/2017)



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