

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 05.01.2017

DELIVERED ON: 11.01.2017

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

W.P. No.19315 of 2003

A. Settu

Petitioner

vs.

1 The Deputy Registrar
Co-operative Societies
Omalur
Salem District

2 Sankari Co-operative Primary Agricultural
& Rural Development Bank Ltd.
represented by the Special Officer
Sankari
Salem District

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari calling for records relating to the order of the second respondent dated 18.06.2003 in R.R.A. No.17/99-2000 and quash the same.

For petitioner
For R1

Mr. K. Selvaraj
Mr. T. Girija
Government Advocate (Cooperative)

ORDER

This writ petition has been filed challenging the order dated 18.06.2003 passed by the second respondent in R.R.A. No.17/99-2000 and quash the same.

2 Admittedly, the petitioner obtained a loan of Rs.3,93,000/- for the purchase of tractor and Rs.5,00,000/- towards purchase of power loom from the second respondent and on account of the default committed by the petitioner in repayment of loan, the second respondent cooperative society initiated recovery proceedings against the petitioner, challenging which, the petitioner is before this Court.

3 Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent.

4 It must be borne in mind that the Tamil Nadu Cooperative Societies Act (for brevity "the Act"), while excluding the jurisdiction of civil Courts, provides for an execution machinery in terms of Section 167 of the Act and the Rules framed thereunder and more particularly Rule 135 enables an aggrieved person, whose property is, without justification, attached in furtherance of satisfaction of dues to the co-operative societies, to apply before the Sale Officer for exclusion of property. The said Sale Officer is mandated to enquire into the bona fides of the claim made by third parties. Even in case of any auction or sale notice pursuant to the decree passed under Section 90, the Act provides for an appeal under Section 152 to the Cooperative Tribunal constituted therein. It is presided over by a District Judge who is empowered to go into both the questions of facts and law and also has the power to grant an interim order and there is no condition for pre-deposit.

5 Similarly, in case of notice under Section 90 of the Act asking a person to appear for an arbitration, the objectors can always object to the arbitration on the ground of jurisdiction. If any arbitration award is passed, it is also appealable to the same Tribunal under Section 152 of the Act.

6 Even the other disputes relating to loan transaction and interest waiver, it is purely a question of contract between the parties. In case of any unreasonable act not authorised under law or in terms of an agreement, the persons who are aggrieved can always raise an arbitration under Section 90 before the Arbitral Officer. Under no circumstances, a writ petition will lie on mere notice, especially when the Act provides for a comprehensive remedy in such cases.

In view of the foregoing discussion, this writ petition is liable to be dismissed and is accordingly dismissed. Costs made easy.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

To

- 1 The Deputy Registrar
Co-operative Societies
Omalur
Salem District
- 2 The Special Officer
Sankari Co-operative Primary Agricultural
& Rural Development Bank Ltd.
Sankari
Salem District

+1 cc to Govt.Pleader, sr.3146.

vsn(co)
krd 1/2

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