



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.01.2017

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THE HON'BLE MR.JUSTICE S.VAIDYANATHAN

W.P.(MD) No.56 of 2017

and

W.M.P(MD) Nos.35 and 36 of 2017

T.Senthil Kumar

2.T.Balasubramanian

... Petitioners

Vs.

1.The Registrar(Housing),
Tamil Nadu Housing Board Building,
Nandhanam, Chennai.

2.The Sub-Registrar of Co-operative
(Housing Development/Arbitrator),
Samadhu School Street,
Mannarpuram,
Trichy.

3.The Secretary,
Kariyappa Town Cooperative Housing Society,
Ponmalai,
Trichy.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in Tha.Va.No.1155/03-04, dated 3.10.2016 and to quash the same as illegal and consequently to direct the third respondent to close the loan No.6 lies in the name of the Petitioner and his brother by crediting the amount a sum of Rs.2,72.681/- and to release the property documents belong to the Petitioners.

For Petitioners : M/s.R.Pandi Maharaja

For Respondents : Mr.A.K.Baskarapandian
1 and 2 Spl.Govt.Pleader



O R D E R

This writ petition has been filed, seeking for issuance of a writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the second respondent in Tha.Va.No.1155/03-04, dated 3.10.2016 and to quash the same as illegal and consequently to direct the third respondent to close the loan No.6 lies in the name of the Petitioner and his brother by crediting the amount a sum of Rs.2,72.681/- and to release the property documents belong to the Petitioners.

2.Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for the respondents 1 and 2. By consent of both parties, the main Writ Petition is taken up for final disposal.

3.Though the Petitioner has taken a plea in the grounds that he was not issued with notice, the Petitioner has pointed out that he has received notice in Para No.4 and also enclosed a notice asking the Petitioner to appear before the Arbitrator. According to the Petitioner, amount due to the society is Rs.2,72,681/- which he has paid on 20.09.2012. Without taking into account the amount already paid, even assuming for the sake of arguments, he has not appeared, the respondent should have brought it to the attention of the Arbitrator. Since this was not done, he was foisted with entire liability and directed the Petitioner to pay a sum of Rs.3,14,963/- together with interest at 15.5.% interest. Since the Petitioner has failed to appear and that he has shown his bonafide, which amount is already paid, which is subject to the confirmation by the respondents, this Court is inclined to interfere with the ex-parte order and direct the Petitioner to appear before the arbitrator and the arbitrator shall pass orders after taking note of the documents, if any that may be filed. Since the Petitioner failed to appear before the Arbitrator, this Court posed a question to the Petitioner as to whether he is willing to pay the cost of Rs.5000/- to any one of the orphanage towards costs, and the learned counsel also fairly agreed for the same.

In view of the same, this Court is inclined to direct the Petitioner to pay a sum of Rs.5000/- towards cost to the credit of Orphanage/Inbavanam, Alagarkoil Road, Madurai. The petitioner shall pay the same within 15 days from the date of receipt of a copy of this order. The Petitioner is also directed to appear before the Arbitrator on 6.2.2017 along with necessary documents and the Sub-Registrar/Arbitrator shall take into account all the documents so produced and pass appropriate orders, in accordance with law. If the Petitioner fails to produce the documents in support of him or failed to appear before the



Arbitrator/authority concerned, the order impugned herein will be restored to file. The Petitioner shall file a proof for payment of costs to the above said orphanage, before the Arbitrator.

With the above directions and observations, the Writ Petition is allowed. Consequently, connected Miscellaneous Petitions are closed. No costs.

Sd/-

Assistant Registrar(CS II)

/True copy/

Sub Assistant Registrar

To:

- 1.The Registrar(Housing),
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Nandhanam, Chennai.
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Trichy.
- 3.The Secretary,
Kariyappa Town Cooperative Housing Society,
Ponmalai,Trichy.

+1cc to M/s.R.Pandi Maharaja, Advocate SR.No.1268
+1cc to special Government Pleader SR.No.838

Vsn

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