

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2018

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P.No.7039 of 2018
and
W.M.P.No.8706 of 2018

A.C.Muralidharan

... Petitioner

versus

1. The Deputy Registrar (Housing)
of Co-operative Societies,
Vellore Region, Vellore.
2. The Secretary,
Ranipet Co-operative House Building
Society Ltd.,
No.19, Javulikadai Street,
Ranipet, Vellore - 632 401.
3. A.C.Anusuya Devi,
Centhamarai Naidu,
No.16/1, Old No.49,
Angalamankoil Street,
Ammoor Town Panchayat,
Walajapet, Vellore.

... Respondents

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari to call for the entire records in pursuant to the auction sale notice issued by the 1st respondent vide CEP No.603/07-08 ARC No.1264/02-03 dated 19.02.2018 and quash the same.

For Petitioner : Mr.T.P.Prabakaran

For Respondents: Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

Mr.L.P.Shanmugasundaram, learned Special Government Pleader takes notice for the respondents. Since this writ petition is disposed of without affecting the interest of the 3rd respondent, notice to the said respondent is dispensed with.

2. The petitioner is aggrieved against the auction sale notice issued by the first respondent dated 19.02.2018 proposing

to auction the property referred to in the impugned proceedings, for realising the loan amount of Rs.32,33,208/-. The petitioner, apart from disputing the quantum, also questioned the impugned auction sale notice on the ground that the same was issued without fixing the upset price.

3. When the matter is taken up for admission today, the learned counsel appearing for the respondents, based on written instructions, submitted that the subject matter auction scheduled to take place today has been postponed due to administrative reason. Therefore, he submitted that nothing survives in this writ petition to be adjudicated upon further and that the petitioner can make an application under Rule 135 of the Tamilnadu Co-operative Societies Act, 1988, to fix the upset price. He further submitted that since the arrears of loan amount is huge, some terms may be fixed on the petitioner to make such application under Rule 135 of the Tamilnadu Co-operative Societies Act, 1988.

4. Considering the above stated facts and circumstances and in view of the clear stand taken by the respondents 1 and 2 that the impugned auction has been postponed due to administrative reason, it is open to the petitioner to make an application under Rule 135 Tamilnadu Co-operative Societies Act, 1988, before the concerned authorities for fixing the upset price, however, subject to the condition that the petitioner pays a sum of Rs.5,00,000/- (Rupees Five Lakhs only) within a period of four weeks from the date of receipt of a copy of this order. On receipt of such application, the concerned authority shall consider the same and fix the upset price before bringing the property for auction once again by issuing fresh notification. It is made clear that this Court is not expressing any view on the merits of the contentions raised by the petitioner, at this stage. It is open to the petitioner to make such application under Rule 135 of the Tamil Nadu Co-operative Societies Act, 1988, also by raising the contentions with regard to the quantum of arrears. If the petitioner fails to make such payment before making such application as stated supra, it is open to the respondents 1 and 2 to issue fresh notification and proceed to auction the property after fixing the upset price on their own. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Deputy Registrar

//True copy//

Sub Assistant Registrar

vsi

To

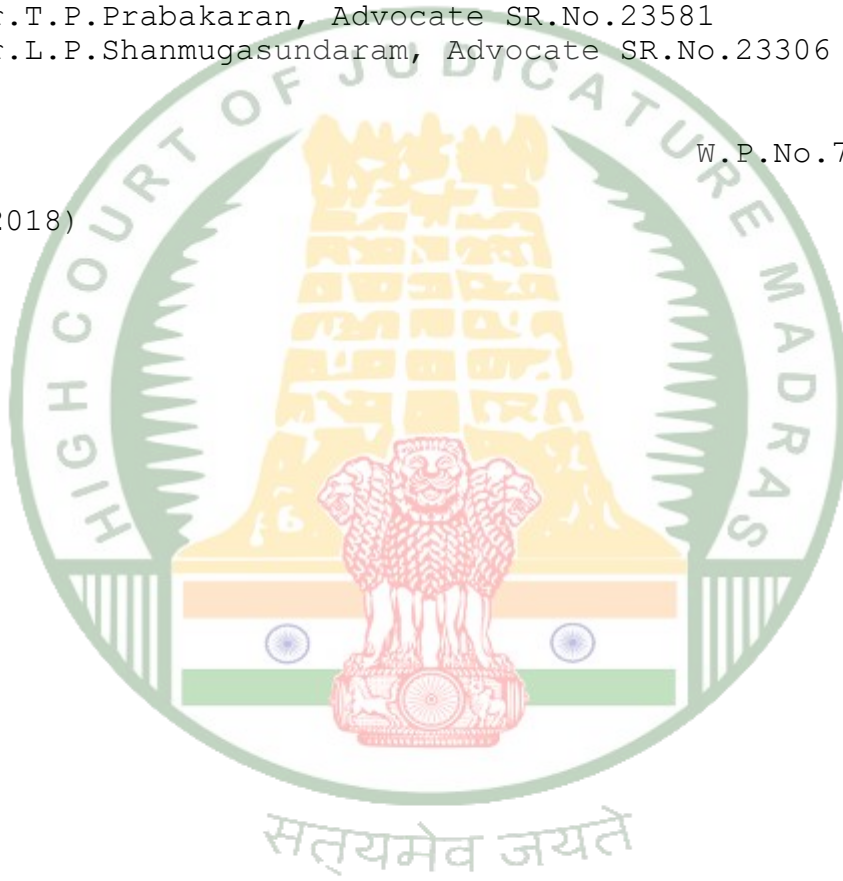
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+1cc to Mr.T.P.Prabakaran, Advocate SR.No.23581

+1cc to Mr.L.P.Shanmugasundaram, Advocate SR.No.23306

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GN(09/04/2018)



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