

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

W.A.No.354 of 2014

No.S.1428 Narasingapuram Co-operative
House Building Society Ltd.,
Rep. by its President,
Narasingapuram Post,
Attur Taluk, Salem District. ... Appellant

-vs-

1.G.Manoharan
2.G.Kaliammal
3.The Registrar of District
Sale Regional (Housing)
O/o. The Deputy Registrar,
Salem. ... Respondents

(Cause title accepted vide order of court dated 21.2.2014 made
in M.P.No.1 of 2014 in WA.SR.No.90307 of 2013)

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent
against the order passed in W.P. No.5589 of 2010 dated
16.08.2013. Writ petition filed under Article 226 of the
constitution of India, for issue of writ of certiorari, call
for the records pertaining to the impugned auction sale notice
dated 28.1.2010 made in Form-9 in E.P.No.770/04-05 in ARC
No.1566/03-04 issued by the first respondent and quash the
same.

For Appellant : Mr.M.S.Palanisamy

For Respondents: Mr.L.P.Shanmugasundaram
Spl.Govt.Pleader (Co-op) for R3
No appearance for R1 and R2

J U D G M E N T

[Judgment of the Court was delivered by
K.K.SASIDHARAN,J.]

The learned single Judge allowed the writ petition filed
by the respondents 1 and 2 challenging the auction notice
dated 28 January 2010, subject to the condition that the legal
representatives of the borrower shall pay a sum of Rs.25,000/-

within a period of four weeks and on such payment, the Society was directed to consider the case for settlement taking into account the beneficial scheme announced by the Government. Feeling aggrieved by the said direction, the appellant has come up with this intra court appeal.

2. The learned counsel for the appellant on instructions submitted that the respondents 1 and 2 failed to comply with the direction issued by the learned single Judge and as such, there was no occasion for the Society to consider the claim for waiver of interest.

3. None appears on behalf of respondents 1 and 2 inspite of adjourning the matter time and again for the appearance of the counsel.

4. The learned single Judge passed a conditional order directing the respondents 1 and 2 to pay a sum of Rs.25,000/- within a period of four weeks. The question of extending the benefit of waiver scheme would arise only in case the primary condition was satisfied by the legal representatives of the borrower. Since no such effort was taken by the respondents 1 and 2, the ultimate order passed by the learned single Judge to the effect that the writ petition would be dismissed, in case, the amount is not paid within a period of four weeks would come into operation. Therefore, we do see considerable force in the contention taken by the appellant.

5. The writ petition filed by the respondents 1 and 2 stands dismissed. Consequently, the intra court appeal filed by the Society is allowed. No costs.

Sd/-
Assistant Registrar (CS-V)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

svki
To

The Registrar, of District Sale Regional
(Housing) O/o. The Deputy Registrar,
Salem.

+ 1 cc to Mr. M.S. Palaniswamy, Advocate Sr.47474
+ 1 cc to Government Pleader Sr.48519

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NRL (CO)
EU (06/08/2018)

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