

THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 27.03.2018
CORAM

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN
AND
THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

Writ Appeal No.200 of 2013 and
M.P.No.1 of 2013

T.Kamaraj .. Appellant/Petitioner
.vs.

1. The Regional Deputy Registrar of
Co-operative Societies (Housing),
Vellore.
2. The Secretary,
Krishnagiri Co-operative Building
Society Limited,
K.K.230 II Cross Co-operative Colony,
Krishnagiri-635 001.

3. Anjala ... Respondents/Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letters
Patent against the order dated 29.04.2011 made in W.P.No.27138
of 2005.

WP.No.27138/2005:Petition under Article 226 of Constitution of
India, praying to issue a writ of mandamus directing the first
respondent to dispose of the revision petition filed before it
on 17.3.2003.

For Appellant : Mr.M.V.Krishnan

For 1st Respondent : Mr.L.P.Shanmugasundaram,
Special Government Pleader

For 2nd Respondent : Ms.T.Girija,
Government Advocate

For 3rd Respondent : Mr.G.T.Subramanian

J U D G M E N T

(Judgment of the Court was pronounced by K.K.SASIDHARAN,J)

The property owned by the appellant was mortgaged with
the Krishnagiri Co-operative Building Society Limited, the 2nd
respondent herein. Since the loan amount was not paid as per
the undertaking, the bank auctioned the property. The 3rd
respondent purchased the property in public auction. The sale

was confirmed in her favour. However, possession was not given.

2. The appellant appears to have filed a Revision Petition before the Co-operative Tribunal, Dharmapuri. The order passed by the Co-operative Tribunal was taken up in CRP.No.1992 of 2007. The appellant filed a Writ Petition in W.P.27138/2005 for a direction to the Regional Deputy Registrar of Co-operative Societies to dispose of the pending Petition on merits.

3. The learned Single Judge took up the Writ Petition in W.P.27138/2005 along with the Civil Revision Petition in CRP.1992/2007 and by order dated 29 April 2011 dismissed both the proceedings. The order dated 29 April 2011 in W.P.No.27138/2005 is under challenge in this intra court appeal.

4. This appeal was argued on multiple occasions. The learned Counsel for the appellant submitted that the appellant is a HIV patient and his family is in possession of only the residential house. The learned Counsel submitted that the Sale Officer committed material irregularities and as such, the sale is not sustainable in law.

5. Since substantial contention has been raised by the appellant with regard to the correctness of the sale and taking into account his health condition, we directed the Secretary of the Society and the auction purchaser to appear in person.

6. The Secretary and the auction purchaser appeared before us in person. We have discussed the matter with them. The auction purchaser agreed to receive a sum of Rs.3,70,000/- in full and final satisfaction of her claim. The Secretary, Krishnagiri Co-operative Building Society Limited agreed to pay a sum of Rs.96,279/- to the 3rd respondent, being the balance amount payable to her with interest. Accordingly, we adjourned the matter for making payment.

7. Subsequently, the appellant paid a sum of Rs.2,00,000/-. The learned Counsel for the 3rd respondent received the said amount and made an acknowledgment.

8. The Writ Appeal was posted on 27 March 2018 for making final payment.

9. When the appeal was taken up on 27 March 2018, the appellant who appeared in person handed over a sum of Rs.1,70,000/- (Rupees One Lakh and Seventy Thousand Only) to the 3rd respondent. The 3rd respondent made an acknowledgment. The Secretary, Krishnagiri Co-operative Building Society Limited, paid a sum of Rs.96,279/- to the 3rd respondent by way of a Demand Draft in full and final satisfaction of her claim.

10. The appellant is aggrieved by the auction of his residential property. The Society received the entire amount originally from the 3rd respondent. Subsequently, pursuant to our direction, the appellant paid the entire amount to the auction purchaser. There is no further liability on the part of the appellant on account of the payment made by him. The Society has no more claim against the appellant. The auction purchaser has also no claim against the society in view of the payment made to her, as narrated above.

11. We direct the 2nd respondent to issue appropriate proceedings discharging the loan and cancelling the mortgage effected by the appellant. In view of the entire payment made by the appellant, we declare that there is no more liability on the part of the appellant to pay any amount to the Society.

12. The Intra Court Appeal is disposed of with the above observation. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Regional Deputy Registrar of
Co-operative Societies (Housing),
Vellore.

+lcc to Government Pleader Sr.o.25212
+lcc to Mr.G.T.Subramanian, Advocate Sr.No.24188
+lcc to Mr.T.Girija, Advocate Sr.No.23676

CA(CO)
sm:28.4.2018

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