

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13-06-2018

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.23771 of 2016

And

W.M.P.No.20362 of 2016

S.Mangaiyarkarasi

... Petitioner

Versus

1.The Managing Director,
The Tamil Nadu Industrial Co-operative Bank Ltd.,
No.36, South Canal Road,
Raja Annamalaipuram,
Mandavellipakkam,
Chennai-600 028.

2.The Auction Officer/Branch Manager,
The Tamil Nadu Industrial Co-operative Bank Ltd.,
Erode Branch,
Prisha Complex 1st Floor,
41-B, Perundurai Road,
Erode-638 011.

.... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned auction sale notice published in the "Daily Thanthi" News Paper dated 24.6.2016, which is scheduled to be auctioned on 13.7.2016, issued by the second respondent and quash the same as illegal and consequently, direct the respondents to consider the representation of the petitioner seeking re-schedulement in payment of the loan amount.

For Petitioner

: Mr.M.Guruprasad

For Respondents

: Mr.N.Diwan Kattura

ORDER

The auction sale notice published in the Daily Thanthi News Paper dated 24.6.2016, which was scheduled to be auctioned on 13.7.2016, issued by the second respondent is under challenge in this writ petition.

2. The husband of the writ petitioner and the writ petitioner are the members of the second respondent-Bank. The writ petitioner along with her husband availed the loan facility from the second respondent- Co-operative Bank. However, they have committed default in repayment and accordingly recovery actions were initiated against the writ petitioner by the second respondent-Bank. The property hypothecated was attached and thereafter, an auction notice was issued by the second respondent to auction the property belongs to the writ petitioner. Under such circumstances, the writ petitioner is constrained to move the present writ petition challenging the auction sale notice.

3. First of all, the second respondent-Co-operative Bank registered under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. Thus, the second respondent-Co-operative Bank is not a State within the meaning of Article 12 of the Constitution of India. Any aggrieved person, from and out of the actions of the Co-operative Bank, has to exhaust the remedies available under the provisions of the Tamil Nadu Co-operative Societies Act and thereafter, in the manner known to law.

4. In the present case on hand, admittedly, the writ petitioner is a defaulter and not repaid the loan dues. Actions were taken by the second respondent under the provisions of the Tamil Nadu Co-operative Societies Act. Thus, the writ petitioner is at liberty to approach the competent authority under the provisions of the Tamil Nadu Co-operative Societies Act. In this regard, Section 90 of the Act provides disputes. Accordingly, an aggrieved member can approach the competent authority for adjudication of the disputes. Against the order passed under Section 90 by the competent authority, an appeal lies before the Co-operative Tribunal under Section 152 of the Tamil Nadu Co-operative Societies Act. Thus, without exhausting such remedies prescribed under the Statutes, no writ can be entertained in respect of the auction sale notice issued in respect of non-payment of the loan dues by the writ petitioner to the second respondent.

5. This being the factum of the case, the present writ petition, at this stage, cannot be entertained and the writ petitioner is at liberty to approach the competent authorities

under the provisions of the Tamil Nadu Co-operative Societies Act, for the redressal of her grievances.

6. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/--

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Managing Director,
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Erode Branch,
Prisha Complex 1st Floor,
41-B, Perundurai Road,
Erode-638 011.

+1cc to Mr.M.Guruprasad, Advocate Sr.No.37552

sm:20.6.2018

सत्यमेव जयते

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