

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21..12..2018
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Writ Petition No.31956 of 2018

&

W.M.P.No.37192 of 2018

Chinnanana

... Petitioner

-Versus-

1.The Registrar of District Housing,
Salem Region, Salem.

2.The Deputy Registrar (Housing),
Salem Region, Salem.

3.The Secretary,
Namakkal Employees Co-operative Housing Society,
6/915, SKS Complex,
East to Vairamani Hospital,
Paramathy Road,
Namakkal District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent relating to the impugned auction sale notice dated 16.10.2018 in E.P.No.670/10-11 and to quash the same and consequential direction to the respondents to recalculate the loan amount by waiving the interest and penal interest which are entitled by the petitioner and to furnish the statement of accounts for further proceedings.

For Petitioner : Mr.C.Prabakaran

For Respondent(s) : Mr.D.Venkatachalam,
AGP for R1 to R3

ORDER

This writ petition has been filed challenging the auction sale notice dated 16.10.2018 issued by the 2nd respondent in E.P.No.670/10-11 and for a consequential direction to the respondent for recalculation of the loan outstanding by waiving the interest and penal interest.

2. The petitioner had raised housing loan from the 3rd

respondent society, subsequently, he had failed to repay the loan amount and as such, an award came to be passed against him for the recovery of the dues. Pursuant to the award, the 3rd respondent had taken steps to bring the property for auction sale to realize the dues. Challenging the auction sale notice, the petitioner has come up with the instant writ petition.

3. The learned counsel for the respondent society submitted that on an earlier occasion, when the auction notice came to be challenged by way of writ petition, this court, by order dated 05.09.2017, while disposing the writ petition in W.P.No.23733 of 2017, directed the respondent society to consider the request made by the petitioner for settlement of outstanding dues on installment basis. But, that order was not complied with and as such, the respondent society had, thereafter, taken steps to bring the property for auction sale. Challenging the auction sale notice, the petitioner is again before this court.

4. In the considered opinion of this court, ex facie, there is no merit in the writ petition. The petitioner had already given undertaking that he would clear off the entire loan dues as early as on 05.09.2017 and the same was not complied with by him. However, today, the learned counsel for the petitioner would submit that if some more time is granted, the petitioner would clear off the entire dues. He has also filed an affidavit of the petitioner undertaking to settle the entire dues within a period of 12 weeks.

5. Considering the submissions made by the learned counsel for the petitioner and the other attending circumstances of this court, this court is inclined to show some leniency to the petitioner and the petitioner is directed to discharge the entire dues on or before 08.02.2019 and if he fails to discharge the dues as directed above, this order shall stand automatically recalled and it would be open to the 3rd respondent to proceed with the auction sale notice in accordance with law.

6. In the result, this writ petition is disposed of with the above directions. No costs. Consequently, connected WMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Registrar of District Housing, Salem Region, Salem.

2.The Deputy Registrar (Housing), Salem Region, Salem.

+1 cc to M/s.C.Prabakaran, Advocate Sr.No.89865

+1 cc to The Government Pleader, SR.No.89993

Writ Petition
No.31956 of 2018

CP9CO)
CSL/08.02.2019



WEB COPY