

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.3.2019

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM
and

The Honourable Mrs.Justice V.BHAVANI SUBBAROYAN
Writ Appeal No.682 of 2019 & CMP.No.5572 of 2019

B.Sampath

...Appellant

Vs

1.The Registrar of the District
(Housing), Salem Region,
East Garden Street, Fairlands,
Salem-16.

2.The Sale Officer, Elavamalai
Cooperative Building Society
Ltd., AA 377, Kalingarayanpalayam
Pudur, Bhavani-1. Erode District.

3.Bhavani Taluk Cooperative
Housing Society Ltd., rep.by its
President, 14/135, Palaniandavar
Koil Street, Bhavani-1.
Erode District.

...Respondents

APPEAL under Clause 15 of the Letters Patent against
the interim order dated 24.1.2019 passed in W.P.No.25312 of
2018 and WMP.No.29438 of 2018.

Prayer in W.P.No.25312 of 2018:

Writ Petitions filed under Article 226 of the
Constitution of India praying that pleased to issue a Writ
of Certiorarified Mandamus Calling for the records relating
to the impugned Auction Sale Notice dated 27.07.2018 made
in E.P.No. 611/ 17-18 in Claim No.165/ 15-16 in Form No. 9
under Rule 126(2) of the Tamil Nadu Cooperative Societies
Rules 1988 issued by the 1st respondent quash the same and
consequently direct the respondents to adjust the housing
load liability of Rs. 11 68 809/- from the petitioners
retirement benefits and disburse the rest of his claims by
considering his representations dated 18.04.2018 and
03.08.2018.

For Appellant : Mr.N.Manokaran

For Respondents : Mr.L.P.Shanmughasundaram, SGP

Judgment was delivered by T.S.SIVAGNANAM, J

We have heard Mr.N.Manokaran, learned counsel for the appellant and Mr.L.P.Shanmughasundaram, learned Special Government Pleader accepting notice for the respondents.

2. This appeal is directed against the interim order dated 24.1.2019 passed in W.P.No.25312 of 2018 and WMP.No.29438 of 2018 filed by the appellant challenging the order passed by the Sale Officer pursuant to an auction sale notice bringing the appellant's property to sale for recovery of a housing loan.

3. Admittedly, there are arrears payable by the appellant. The learned Single Judge exercised his discretion and granted an order of interim stay subject to the condition that the appellant should deposit a sum of Rs.4 lakhs within a period of eight weeks from the date of the said order dated 24.1.2019. It was also made clear in the said order that if the appellant failed to deposit the said amount within the time permitted, the order of interim stay stood automatically vacated.

4. We have our own doubts as to whether a writ petition itself is maintainable for the relief sought for. However, we refrain ourselves from expressing any opinion at this juncture since this appeal is directed against the interim order alone. We find no error in the discretion exercised by the learned Single Judge.

5. The learned counsel for the appellant would submit that the third respondent society is liable to pay a sum of more than Rs.12 lakhs towards arrears of salary alone.

6. However, this can hardly be a reason to interfere with the discretion exercised by the learned Single Judge.

7. For the above reasons, we find no ground to entertain the writ appeal.

8. Accordingly, the above writ appeal is dismissed. No costs. Consequently, the connected CMP is also dismissed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

RS

To
The Registrar of the District (Housing),
Salem Region, East Garden Street,
Fairlands, Salem-16.

+1cc to Mr.N.Manokaran , Advocate SR.No. 21115
+1cc to Mr.L.P.Shanmughasundaram , Advocate SR.No. 21162
+1 cc to Government Pleader SR.NO. 21511

WA.No.682 of 2019 &
CMP.No.5572 of 2019

A.SK(01/04/2019)



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