

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2019

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

W.P.No.5677 of 2019 & W.M.P.Nos.6458 & 6461 of 2019 &
W.P.No.5681 of 2019 & W.M.P.Nos.6466 & 6467 of 2019 &
W.P.No.5683 of 2019 & W.M.P.Nos.6469 & 6472 of 2019

W.P.No.5677 of 2019

Rajammal

...

Petitioner

Vs.

1.The Deputy Registrar (Housing),
Salem Zone, Salem.

2.The Cooperative Sub Registrar (Housing),
Namakkal.

3.The Secretary,
SL. Spl. 155, Belukurichi Cooperative Housing
Credit Society, Belukurichi,
Sendamangalam,
Namakkal District.

4.V.Jayamani

5.Kondamanaicker

....

Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the second respondent made in proceedings in Arbitration Case No.331 /2002-2003, dated 10.10.2017 and quash the same and consequently direct the second respondent to hear the case on merits after affording opportunity to the petitioner and other interested parties in accordance with law.

* * *

W.P.No.5681 of 2019

M.Natesan

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Petitioner

Vs.

1.The Deputy Registrar (Housing),
Salem Zone,
Salem.

2.The Cooperative Sub Registrar (Housing),
Namakkal.

3.The Secretary,
SL. Spl. 155, Belukurichi Cooperative Housing
Credit Society, Belukurichi,
Sendamangalam,
Namakkal District.

4.N.Mani

5.M.Chandra

6.N.Mani

7.N.Vijayakumar

8.N.Mariappan alias Palanimuthu ... Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the second respondent made in proceedings in Arbitration Case No.330/2002-2003, dated 10.10.2017 and quash the same and consequently direct the second respondent to hear the case on merits after affording opportunity to the petitioner and other interested parties in accordance with law.

* * *

W.P.No.5683 of 2019

S.Sundaram

Vs.

Petitioner

1.The Deputy Registrar (Housing),
Salem Zone,
Salem.

2.The Cooperative Sub Registrar (Housing),
Namakkal.

3.The Secretary,
SL. Spl. 155, Belukurichi Cooperative Housing
Credit Society, Belukurichi,
Sendamangalam,
Namakkal District.

4.P.Sengodu

5.Komarayee

...

Respondents

Prayer:- The Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus to call for the records of the

second respondent made in proceedings in Arbitration Case No.5340/2004-2005, dated 10.10.2017 and quash the same and consequently direct the second respondent to hear the case on merits after affording opportunity to the petitioner and other interested parties in accordance with law.

For Petitioner
in all W.Ps.' : Mr.N.Umapathi

For Respondents
1 to 3
in all W.Ps. : Mr.Balaramesh
Special Government Pleader for R1 to R3

C O M M O N O R D E R

By consent, these Writ Petitions are taken up for disposal at the admission state itself. Mr.Bala Ramesh, learned Special Government Pleader takes notice for the respondents 1 to 3 in all Writ Petitions.

2. The prayer in these Writ Petitions for issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent in proceedings in Arbitration Case Nos. 331/2002-2003, 330/2002-2003 & 5340/2004-2005, respectively, dated 10.10.2017 and quash the same and consequential direction to the second respondent to hear the case on merits after affording opportunity to the petitioners and other interested parties in accordance with law.

3. The main ground of the petitioners is that the Award has been passed against the dead person. Therefore, the impugned orders are liable to be quashed.

4. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the legal-heirs of the deceased persons are added as parties in the said Award and the petitioners, without exhausting the alternative remedy of filing an appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, filed the present Writ Petitions, which are not maintainable.

5. After the elaborate arguments on both sides, the learned counsel for the petitioners has agreed to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) in each case to the respondent-Society, without prejudice to their right to agitate the matter before the Appellate Authority.

6. The learned Special Government Pleader for the respondents 1 to 3 fairly conceded that if the said

amount is deposited within the time frame fixed by this Court, the respondents shall not proceed with the auction for the particular period as stated by this Court.

7. In view of the submission of either side, this Court directs the petitioner in each case to deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to the respondent-Society within a period of six weeks from the date of receipt of a copy of this order, till such time auction proceedings shall be kept in abeyance, and the petitioners are at liberty to file an appeal before the appellate Court, only after remitting the said sum to the respondent-Society. If the petitioners have not complied with the aforesaid conditional order, it is open to the respondents to proceed with the auction in accordance with law.

8. With the above directions, these Writ Petitions are disposed of. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

r n s

To

- 1.The Deputy Registrar (Housing),
Salem Zone, Salem.
- 2.The Cooperative Sub Registrar (Housing),
Namakkal.
- 3.The Secretary,
SL. Spl. 155, Belukurichi Cooperative Housing
Credit Society, Belukurichi,
Sendamangalam,
Namakkal District.

+3cc to Mr. N.Umapathi, Advocate SR.No. 17878,17879,17880

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