

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2019

CORAM

THE HON'BLE MR. JUSTICE D. KRISHNAKUMAR

W.P. No.5690 of 2019
and
WMP.No.6478 & 6479 of 2019

T.Nagaraj

.. Petitioner

Vs.

- 1.The Deputy Registrar (Housing),
Salem Zone,
Salem.
- 2.The Co-operative Sub Registrar (Housing),
Namakkal.
- 3.The Secretary,
SL.Spl.155, Belukurichi Co-operative Housing
Credit Society, Belukurichi,
Sendamangalam,
Namakkal District.
- 4.N.Lakshmi,
- 5.N.Sudha,
- 6.N.Karthik,

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue WRIT OF CERTIORARI FIED MANDAMUS, to call for the records of the second respondent made in proceedings in Arbitration Case No.5343/2004-2005 dated 08.12.2007 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 : Mr.N.Umapathi

For R1 to R3 : Mr.D.Venkatachalam
Additional Government Pleader

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O R D E R

The petitioner has filed the Writ Petition praying to issue a WRIT OF CERTIORARIIFIED MANDAMUS, to call for the records of the second respondent made in proceedings in Arbitration Case No.5343/2004-2005 dated 08.12.2007 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.

2.By consent of both the parties, the writ petition is taken up for final disposal at the admission stage itself.

3.The learned counsel for the petitioner submitted that the petitioner will approach the appellate authority to seek his remedy. The request of the petitioner is that the respondents Society has notified the auction on 28.02.2019. Therefore, the petitioner seeks time to settle the amount to the respondents by making the representation or to approach the appellate forum.

4.The learned Additional Government Pleader appearing for the respondent Society fairly submitted that if the petitioner has showed bona fide, to pay part payment of amount to the Society, the said auction will be deferred for the period as may be fixed by this Court.

5.Considering the above said submissions, by consent of parties, this Court is inclined to pass the following orders:

(i) The petitioner shall deposit a sum of Rs.1,50,000/- (Rupees one lakh and fifty thousand only), within a period of four weeks from the date of receipt of a copy of this order. Till such time, the auction to be held on 28.02.2019 is deferred for a period of four weeks;

(ii) It makes it clear that if the petitioner has not complied the said condition within the said period, it is open to the respondents Society to proceed the auction in accordance with law; and

(iii) If any, such representation is submitted by the petitioner for the waiver of interest, the same shall be considered within the said period of four weeks.

(iv) It is open to the petitioner to file an appeal before the appellate authority, if so advise on compliance of the conditional order passed by this Court.

6. Accordingly, the writ petition is disposed of with the above directions. Consequently, the connected Miscellaneous Petitions are closed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar(CS VIII)

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Sub Assistant Registrar

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To

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

+1cc to Mr.D.Venkatachalam, Advocate sr.no.18756

+1cc to Mr.N.Umapathi, Advocate sr.18687

kj(co)
nr 01/03/2019

W.P. No.5690 of 2019

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