

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 11.06.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

W.P.No.8693 of 2019
and
W.M.P.Nos.9240 & 9241 of 2019

R.Nagesh Babu

... Petitioner

Versus

1.The State of Tamilnadu
Rep.by the District Collector,
Vellore, Vellore District.

2.The Co-operative Sub Registrar/Sales Officer,
Ranipet Town Co-operative Bank Ltd.,
Ranipet, Vellore District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Certiorarified Mandamus calling for the records relating to the impugned auction notice published in one issue of Tamil Daily namely Daily Thanthi dated 22.02.2019 issued by the 2nd respondent herein in respect of land and building, bearing Door No.10 and 11, previously Gandhi Road, presently R.R.Road Ranipet, Walaja Taluk, Vellore District, Ward B, Block No.34, comprised in T.S.No.39/2, 40/2, 41(Old survey No.683A/3(part) of an total extent of 544 sq.ft out of larger extent of land and building of an extent of 1008 sq.ft and quash the same and consequently direct the 2nd respondent to follow the due process of law in taking action against the above said immovable property.

For Petitioner सत्यमेव जयते : Mr.K.Venkateswaran

For R1 : Mr.L.P.Shanmugasundaram
Spl.Govt.Pleader (co-op)

For R2 : Ms.T.Girija
Government Advocate

O R D E R

When the matter was listed yesterday, there was no representation for the petitioner. Today when the matter is called, again there is no representation on behalf of the petitioner.

2. The learned counsel for the respondent would submit that the writ petitioner has availed loan from the second respondent Society to the tune of Rs.10,00,000/- as early as in the year 2000 and he has not repaid the dues. Hence, recovery proceedings were initiated. Challenging the same, the writ petition filed.

3. This Court earlier granted interim order on condition that the petitioner should pay a sum of Rs.4,00,000/-, as against claim of Rs.58,14,363/-. Accordingly, the petitioner has paid a sum of Rs.4,00,000/-.

4. The learned counsel for the respondent submitted that, the petitioner is not entitled for any relief by way of writ petition. Since the writ petition is not maintainable against Co-operative Society, he is chronic defaulter for the past 19 years. He has not paid the instalments which has culminated in the recovery proceedings. Despite several concessional schemes announced by the Government, time and again, the petitioner has not availed the same and as of now the total due payable to the Society is Rs.58,14,363/-. It is also brought to the notice of this Court that in the earlier occasion when the recovery proceedings were resorted, the petitioner herein approached this Court and delayed the recovery proceedings substantially.

The counter filed by the respondent reads as under:-

"5.I submit that the petitioner R.Nagesh Babu (Membership No.6334) and his mother Mrs.Suseela Ammal, (Membership No.6920) jointly borrowed a sum of Rs.10,00,000/- (Rupees Ten Lakhs only) by way of business loan from our Bank on 03.06.2000 by executing a registered Mortgage in favour of our Bank in respect of the above said property and they also agreed to repay the loan with interest in 60 equal monthly instalments. But after availing the loan, both of them did not pay even a single monthly instalment in spite of our repeated requests and several notices. Hence, having no other alternative, we initiated Arbitration Proceedings in ARC No.167/2000-2001 before the Deputy Registrar of Co-operative Societies, Vellore, wherein an Award was passed on 30.05.2002 directing them to pay a sum of Rs.12,60,490/- with interest at 19% p.a. As against the said Award, the petitioner herein or any other person interested in the property did not prefer any appeal nor did they pay the award amount.

6.I Submit that since the petitioner failed to pay the Award amount, we took Execution proceedings in E.P.No.256/2002-2003 to sell the mortgaged property in public auction. The property was brought to auction several times, but no one came forward to purchase the

property. Hence, we requested the Deputy Registrar of Co-operative Societies, Ranipet Circle, to set off the mortgaged property for the loan amount and an order was also passed to that effect on 19.10.2010. Accordingly, a sale Certificate was issued and registered in favour of our Bank on 12.04.2017 and registered as Document No.1840/2017 on the file of the Sub-Registrar of Walajapet."

5. Though the counter It is clear enough that the petitioner after availing loan in the year 2000, has not cared to repay the money as per schedule of payment and after following all the due process, recovery action has been initiated. Liberty given to the petitioner under various schemes announced periodically not been availed. Even granting interim order, he has not come forward to settle the dues availing some breath of time.

6. In the light of the above, the Writ Petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The District Collector,
State of Tamilnadu,
Vellore,
Vellore District.

2.The Co-operative Sub Registrar/Sales Officer,
Ranipet Town Co-operative Bank Ltd.,
Ranipet,Vellore District.

+1cc to M/s.T.Girija, Advocate, S.R.No.47283

+1cc to the Government Pleader(Co-Op), S.R.No.47502

W.P.No.8693 of 2019
and

W.M.P.Nos.9240 & 9241 of 2019

KS (CO)
RRS (20/06/2019)