

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 24.09.2019

PRONOUNCED ON : 27.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.17093 of 2019

S.M.Velayutham

...

Petitioner

Vs

1.Krishnagiri Cooperative Housing
Society Limited,
Represented by its Secretary,
K.K.329, Krishnagiri Cooperative
Housing Society Limited,
35/15-A, West Link Road,
Co-operative Colony,
Krishnagiri - 635 001.

2.The Deputy Registrar (Housing),
Vellore Zone and
Vellore District.

3.The Sale Officer (Housing)
Office of the Deputy Registrar (Housing),
Vellore Division,
Vellore.

... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents to issue clearance certificate for loan no 2791 and return the member amount of Rs.5,800/-.

For Petitioner :Mr.V.Ragavachari

For 1st Respondent :Mr.L.P.Shanmugasundaram,
Special Government Pleader

For Respondents 2 and 3 :Ms.T.Girija, Government Advocate

ORDER

The petitioner herein has mortgaged his property with the first respondent and borrowed a sum of Rs.1,00,000/- (Rupees one lakh only) as loan. But, failed to pay the due. Hence, the first respondent initiated recovery proceedings against the petitioner in A.R.C.No.278 of 2002-2003 on the file of the Deputy Registrar, Housing, Vellore District Zone. Award was passed on 16.08.2004 for a sum of Rs.1,75,478/-.

2.The petitioner challenged the award in C.M.A.No.43 of 2010 which was dismissed by the learned Principal District Court cum Co-operative Tribunal, Krishnagiri. As against that award, the petitioner preferred C.R.P.No.48 of 2013 before this Court. The revision petition was dismissed granting four months time for the petitioner to pay the amount. The petitioner herein has paid a sum of Rs.45,000/- on 11.03.2013 and a sum of Rs.1,34,478/- on 23.03.2018. According to the petitioner, having repaid the entire amount, the respondents ought to have issued a clearance certificate to him. But, in spite of several representations and requests, the respondents have not issued the clearance certificate. Further, they demanded a further sum of Rs.2,34,926/- towards the very same loan amount which he has already paid. Hence, the present writ petition seeking mandamus to direct the respondents to issue clearance certificate for the loan no.2791 and return the membership amount of Rs.5,800/-.

3.The learned counsel for the petitioner would contend that as per the order passed in C.R.P.No.48 of 2013 on 09.01.2017, the petitioner is liable to pay only Rs.1,34,478/- with interest. Towards the said amount, he has paid Rs.1,67,828/-. Hence, there is no due payable by the petitioner.

4.Per contra, the first respondent has filed counter affidavit wherein, it is stated that on 16.08.2004, in A.R.C.No.278/2002-2003, award of Rs.1,75,478/- was passed. The Civil Revision Petition and the Civil Miscellaneous Appeal preferred by the petitioner were dismissed. After the dismissal, the petitioner has paid Rs.1,34,478/- on 23.03.2018 and also Rs.33,350/- on 07.04.2018. As against a total sum of Rs.5,54,131/- payable, the petitioner has so far paid Rs.2,79,224/-. Further sum of Rs.2,74,907/- is payable as on 31.07.2019. If the petitioner pay the entire due, he will be entitled for clearance certificate.

5.To ascertain how the interest calculated and the remittance are accounted, this Court directed the first respondent to file statement of accounts. Accordingly, the statement of account was filed by the first respondent. Till March 2009, 20% interest has been levied for the money borrowed. Thereafter, the rate of interest has been reduced to 15%. The amounts paid by the petitioner has been credited towards the interest portion. Thus, as on 31.07.2019, the petitioner is liable to pay a sum of Rs.1,74,907/- towards interest and Rs.1,00,000/- towards principal together, a total sum of Rs.2,74,907/-.

6.In the typed set of papers, the month wise statement from 16.08.2004 to 31.07.2019 also furnished by the learned Special Government Pleader appearing for the first respondent. On perusal of the counter and the statement of accounts, this Court finds that, the petitioner has still not paid the entire loan arrears. Therefore, he is not entitled for clearance certificate. Hence, the writ petition is liable to be dismissed.

7.In the result, the writ petition is dismissed. However, if the petitioner has got any dispute regarding the manner of the interest calculated, he has to make appropriate representation to the first respondent who may consider in the light of the statement of accounts and the terms of the society. No costs.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

jbm

To

1.The Secretary,
Krishnagiri Cooperative Housing
Society Limited,
K.K.329, Krishnagiri Cooperative
Housing Society Limited,
35/15-A, West Link Road,
Co-operative Colony,
Krishnagiri - 635 001.

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2.The Deputy Registrar (Housing),
Vellore Zone and
Vellore District.

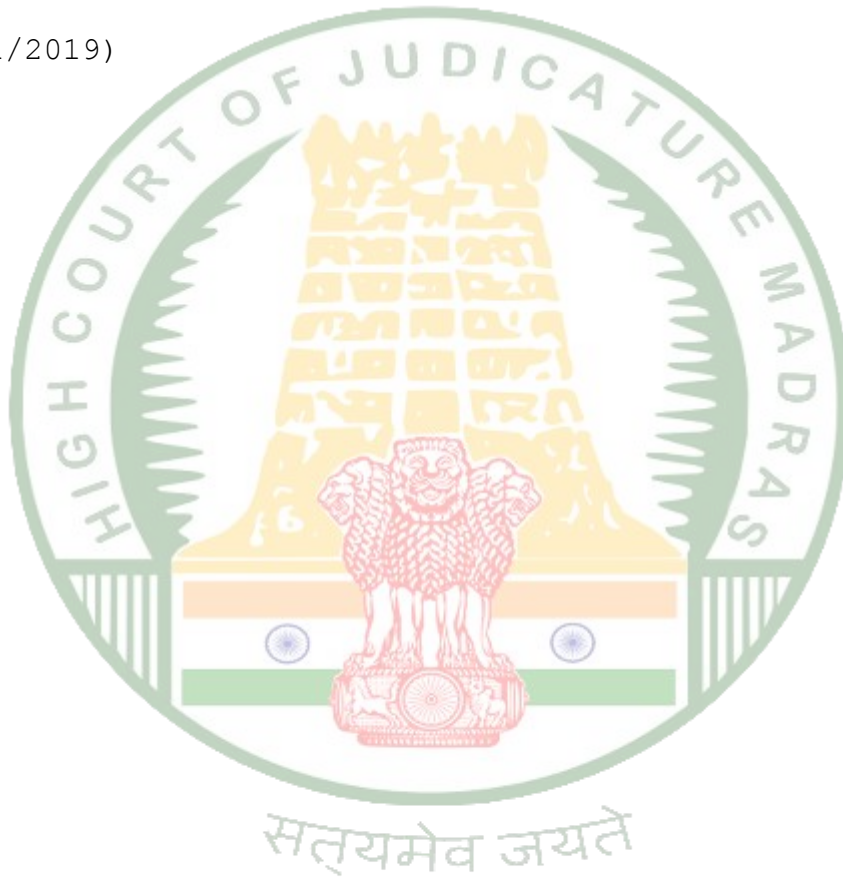
3.The Sale Officer (Housing)
Office of the Deputy Registrar (Housing),
Vellore Division,
Vellore.

+1 cc to Spl Government Pleader (co-op) Sr.No. 83627

W.P.No.17093 of 2019

kk

A.SK(05/11/2019)



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