

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.08.2019

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.25453 of 2019

K.T.Gopalakrishnan

.. Petitioner

/versus/

1.The Registrar,
Registrar of Co-operative Societies,
(Housing Unit),
Tamil Nadu Co-operative Societies Joint Compound,
II Floor,
No.48, Rithardone Road,
Veppery,
Chennai 600 007.

2.The Deputy Registrar, (Housing),
Salem, Salem-16.

3.The Secretary,
AA377, Elavamalai Co-operative Building Society Ltd.,
Erode Taluk,
Erode District.

4.K.S.Kalpana

5.S.Sumathi

.. Respondents

Writ Petition filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the concerned records relating to the order passed by the 1st respondent in Na.Ka.No.1122/2019/r/g/1/dated 20.03.2019 and quash the same and consequently directing the 1st respondent to entertain petitioner appeal petition dated 22.02.2019.

For Petitioner

:Mr.G.Pavendhan

For Respondents

:Mr.L.P.Shanmugasundaram,
Spl.GP for R1 to R3
Mr.R.Marudhachalam for
R4 and R5

ORDER

By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. Heard Mr.G.Pavendhan, learned counsel appearing for the petitioner and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, who takes notice on behalf of respondents 1 to 3 and Mr.R.Marudhachalam, learned counsel, who takes notice on behalf of respondents 4 and 5.

3. The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus calling for the concerned records relating to the order passed by the 1st respondent in Na.Ka.No.1122/2019/r/g/1/ dated 20.03.2019 and quash the same and consequently directing the 1st respondent to entertain the petitioner's appeal petition dated 22.02.2019.

4. There is no reason to interfere with the order passed by the 1st respondent dated 20.03.2019, since the appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983 has been filed belatedly and the reason stated for the enormous delay appears to be unacceptable. The petitioner has been pursuing his remedy before various Forums on various other grounds, thereafter, he starts from square one challenging the decree passed on 06.06.2018 against him.

5. The order passed by the Co-operative Registrar (Housing), Erode-II, dated 06.06.2018, pursuant to the direction of this Court, vividly explained the process undertaken by the Co-operative Department. After the petitioner committed default in payment of his loan, enough opportunities was given to the petitioner to pay the due. Despite the opportunities, the petitioner has not paid the due and belatedly appeal under Section 152 of the Tamil Nadu Co-operative Societies Act, 1983 has been preferred challenging the decree.

6. Appeal has rightly been rejected on the ground of delay and laches. Hence, this writ petition is dismissed. However, the order passed by this Court dismissing the writ petition shall not stand in the way of the petitioner pursuing his remedy before the appropriate Forum. Further, from the records, this Court finds that the sale proceed is over and above the due payable by the petitioner. If so, the petitioner is entitled to get back the balance money, after adjusting the due payable by him with interest, if it is not paid so far by the respondent. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

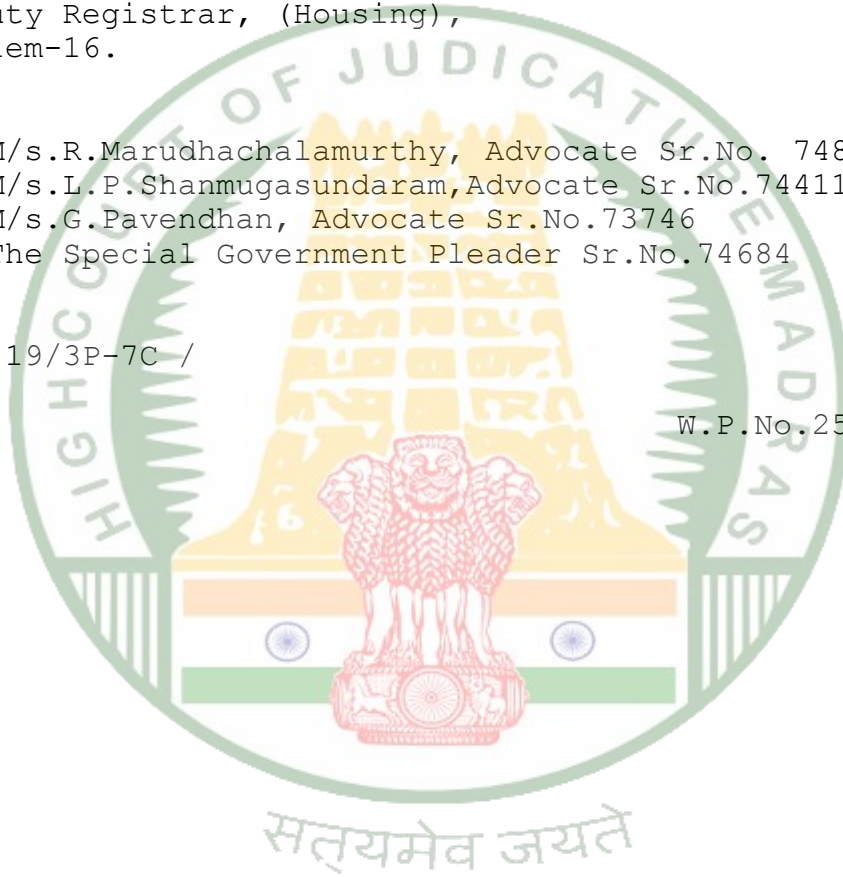
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2.The Deputy Registrar, (Housing),
Salem, Salem-16.

+1 cc to M/s.R.Marudhachalamurthy, Advocate Sr.No. 74875
+1 cc to M/s.L.P.Shanmugasundaram, Advocate Sr.No.74411
+1 cc to M/s.G.Pavendhan, Advocate Sr.No.73746
+1 cc to The Special Government Pleader Sr.No.74684

AKM/25.09.19/3P-7C /

W.P.No.25453 of 2019



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