

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2019

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

W.P. 31543 of 2018

Y.P.Kaliyamoorthy

... Petitioner

Vs.

1. The Assistant General Manager,
Tamil Nadu Cooperative Housing
Federation,
(Venkatasamy Vaseekam Nilayam),
No.48, Ritherten Road,
Chennai - 600 007.
2. The Assistant General Manager,
Tamil Nadu Cooperative Housing
Board,
Gandhi Nagar CHBS (Cooperative
House Building Society),
Gandhi Nagar, Attur,
Salem District.
3. The Secretary,
S.938 Gandhi Nagar CHBS
(Cooperative House Building Society),
Gandhi Nagar, Attur,
Salem District.

... Respondents

PRAYER : Writ petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the 2nd respondent to provide the benefits to the petitioner as contemplated in the letter dated 06.06.2017 in Na.Ka.No.4834/16-17/Va(MA)A issued by the 1st respondent consequently direct the 2nd respondent to close the loan account of the petitioner and release the documents, which was pledged by the petitioner before the 2nd respondent while availing loan as security.

For Petitioner

: Mr.R.Nalliyappan

For Respondents

: Mr.L.P.Shanmugasundaram,
Special Government Pleader

O R D E R

This Writ Petition has been filed seeking for a direction to the 2nd respondent to close the loan account of the petitioner and also release the documents mortgaged by them.

2. According to the petitioner, he has obtained the housing loan from the 3rd respondent society and he has repaid the entire loan amount. Despite the repayment, the 3rd respondent has failed to close the loan account and also to return the original title deeds deposited by the petitioner.

3. Earlier, when the matter was taken up for hearing, the learned counsel appearing for the respondents, on instructions, submitted that the petitioner did not pay the entire loan amount and as on today, he has to pay a sum of Rs.3,43,545/-. That apart, the petitioner has already filed a Writ Petition before this Court in W.P.No.21670 of 2017 seeking a direction to the 2nd respondent herein to receive the principal and its interest amount payable by the petitioner, wherein this Court by an order dated 21.08.2017 has passed the following order :-

"a. The petitioner has to pay the amount as per the order passed by the 1st respondent in Na.Ka.No.4834 of 2016-2017 dated 06.06.2017 on or before 30.08.2017.

b. If the said amount is deposited within such period, then it is open to the petitioner to file an appeal under Sec.90 of the Tamil Nadu Cooperative Societies Act, 1983 within two weeks.

c. the aforesaid clause (a) is not complied with, it is open to the respondent to proceed in accordance with law."

Despite the order passed by this Court directing the petitioner to pay the balance amount of Rs.5,69,402/-, the petitioner has only deposited a sum of Rs.3 lakhs. That apart, this Court had passed the order directing the petitioner to file the appeal after depositing the amount. But, without depositing the amount and without filing the appeal, the petitioner cannot file the present Writ Petition.

4. I have considered the rival submissions and perused the relevant records carefully.

5. As rightly stated by the counsel appearing for the respondents that in the earlier order passed by this Court in the above Writ Petition, the petitioner was directed to pay the amount on or before 30.08.2017 and after deposit, the petitioner is directed to file an appeal under Sec.90 of the Tamil Nadu Cooperative Societies Act. Without depositing the amount and

also without filing the appeal, the petitioner cannot file the Writ Petition. Hence, the Writ Petition is liable to be dismissed. In the result, the present Writ Petition stands dismissed. No costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

rpp

To

+1 cc to M/s.R.Nalliyappan, Advocate, S.R.No.1937

+1 cc to M/s.L.P.Shanmugasundaram, Advocate, S.R.No.2179

SSM(12/02/2019).

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