

In the High Court of Judicature at Madras

Dated : 27.1.2020

Coram :

The Honourable Mr.Justice T.S.SIVAGNANAM

Writ Petition No.8627 of 2016 & WMP.No.7673 of 2016

M.Mangalasamy

...Petitioner

Vs

1.The Registrar of Cooperative Societies (Housing), Nandanam, Chennai-35.

2.The President, NN-11 Paramakudi Cooperative Building Society Ltd., Paramakudi, Ramnad District.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorari to call for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No. 2683/2015/Sa.Pa.1 dated 23.2.2016 and quash the same.

For Petitioner : Mr.C.Prakasam
For Respondent-1 : Mr.L.P.Shanmugasundaram, SGP
For Respondent-2 : Mr.R.Balaramesh, SGP & Mr.D.Venkatachalam, AGP

ORDER

I have heard Mr.C.Prakasam, learned counsel for the petitioner, Mr.L.P. Shanmugasundaram, learned Special Government Pleader appearing for the first respondent and Mr.R.Balaramesh, learned Special Government Pleader and Mr.D.Venkatachalam, learned Additional Government Pleader both appearing for the second respondent.

2. The petitioner has filed this writ petition challenging an order passed by the first respondent dated 23.2.2016 in a revision petition filed by the petitioner under Section 153 of the Tamil Nadu Cooperative Societies Act, 1983 (for brevity, the Act).

3. The petitioner availed a housing loan from the second respondent society in the year 2001 repayable in 15 years agreeing to repay Rs.4,511/- per month as equated monthly instalments. The petitioner paid the instalments for a period of one year and committed default from the year 2002. Thereafter, payments were not made. However, the second respondent society, during the year 2005, informed the petitioner about the waiver scheme announced by the Government and requested the petitioner to avail the same. But, the petitioner did not avail the benefit of the waiver scheme within the time permitted.

4. Subsequently also, the petitioner did not pay any amount towards loan. In the year 2008, the State Government introduced another waiver scheme and the petitioner was informed about the same, in response to which, the petitioner, though paid a sum of Rs.1 lakh, did not abide by the waiver scheme and once again the petitioner defaulted. Even in the year 2015, the second respondent society informed the petitioner by a communication dated 20.3.2015 that the entire loan can be settled if the petitioner pays a sum of Rs.7,50,595/- on or before 15.5.2015. This offer was also not availed by the petitioner nor any payment was made by the petitioner.

5. In the meantime, on 12.5.2009, the petitioner was called upon to effect payment to enable arbitration proceedings to commence and arbitration were initiated by the second respondent on 20.8.2009. Though the petitioner's wife received the notice, no payment was made. Further, two notices dated 16.6.2009 and 13.7.2009 were issued calling upon the petitioner to make payment. Again, though the two notices were received by the petitioner's wife, nothing was forthcoming.

6. Thereafter, the Cooperative Sub-Registrar/Arbitrator issued summons to the petitioner calling upon him to appear for the arbitration proceedings. Though the summons were stated to have been received by the petitioner's wife, the petitioner did not respond. Therefore, another summon was issued to the petitioner on 28.7.2015 calling upon him to participate in the arbitration proceedings. This time, the summon was received by the petitioner's father in law namely one Mr.K.Kalanjiyam. In spite of that, the petitioner did not appear for the arbitration proceedings.

7. While so, the petitioner filed a revision petition before the first respondent under Section 153 of the Act. Alleging that the said revision petition has not been disposed of, the petitioner approached this Court by filing W.P.No.30085 of 2015 wherein a direction was issued on 23.9.2015 to the first respondent to consider the statutory revision. Further alleging disobedience of the order, the petitioner filed Cont.P.No.376 of

2016. Subsequently, the first respondent afforded an opportunity of personal hearing to the petitioner and passed the impugned order.

8. At the very outset, it has to be pointed out that the petitioner is a chronic defaulter and did not make any payment to interfere with the order passed by the first respondent. Thrice, the second respondent society intimated to the petitioner to avail the waiver scheme and on all the three occasions, the petitioner failed to avail the same. That apart, the petitioner did not participate in the arbitration proceedings though notices/summons were received by the members of his family. Even thereafter, the petitioner did not raise any dispute under Section 90 of the Act, but filed a revision petition under Section 153 of the Act, which is not maintainable. The first respondent specifically recorded in the impugned order that the petitioner perused the records and the statement of accounts, agreed to the same and signed in token thereof. In such circumstances, the petitioner has not made out any case to quash the order passed by the first respondent.

9. For the above reasons, the writ petition is dismissed. No costs. Consequently, the connected WMP is also dismissed.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

RS

To

1.The Registrar of Cooperative Societies (Housing), Nandanam, Chennai-35.

2.The President, NN-11 Paramakudi Cooperative Building Society Ltd.,

Paramakudi, Ramnad District.

+1cc to Mr.C.Prakasam, Advocate SR.No.5856

+1cc to Mr.R.Balaramesh, Advocate SR.No.5668

+1cc to Government Pleader SR.No.6156

WP.No.8627 of 2016&

WMP.No.7673 of 2016

GMV (31/01/2020)