



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.02.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.7288 of 2010 & W.P.(MD)No.7106 of 2011
and M.P.(MD)Nos.1 & 2 of 2010, 1 of 2011 & 1 of 2013

W.P.(MD)No.7288 of 2010

M.Kavitha

... Petitioner

Vs.

1. The Deputy Registrar(Housing),
Virudhunagar Region,
Virudhunagar.

2. The Co-operative Sub Registrar
(Housing)/Arbitrator,
Paramakudi,
Ramanathapuram District.

3. NN.11,Paramakudi Co-operative
Building Society Limited,
Rep. by its Secretary,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to the impugned order of the first respondent in No.Nil, dated 10.05.2010 and quash the same.

For Petitioner : Mr.M.Saravanan

For R-1 : Mr.K.Sathiya Singh,
Additional Government Pleader.

For R-2 & R-3 : Mr.Sadiq Raja

W.P.(MD)No.7106 of 2011

M.Kavitha

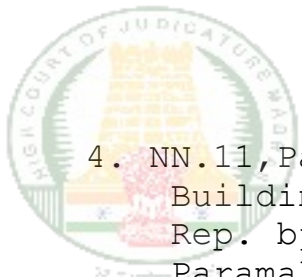
... Petitioner

Vs.

1. The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Housing and Urban Development,
Fort St. George, Chennai.

2. The Registrar of Co-operative Societies
(Housing), Chennai - 600 020.

3. The Deputy Registrar(Housing),
Virudhunagar Region,
Virudhunagar.



4. NN.11,Paramakudi Co-operative
Building Society Limited,
Rep. by its Secretary,
Paramakudi,
Ramanathapuram District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing respondents 3 and 4 to extend the benefit as per G.O.Ms. No.236, Department of Housing and Urban Development dated 29.10.2010 and adjust Rs.3,00,000/- deposited by the petitioner towards principal and 90% of the interest amount of loan account No.413.

For Petitioner	: Mr.M.Saravanan
For R-1 to R-3	: Mr.K.Sathiya Singh, Additional Government Pleader.
For R-4	: Mr.Arunachalam @ Arun

C O M M O N O R D E R

Heard the learned counsel appearing for the writ petitioner and the learned Additional Government Pleader appearing for the official respondents and the learned counsel appearing for the society.

2. The writ petitioner availed housing loan from the fourth respondent society to the tune of Rs.2,20,000/-. Unfortunately, only the part payment was made and the balance amount was not paid. Therefore, the third respondent issued sale notice for bringing the property to auction. That was put to challenge in W.P.(MD)No.7288 of 2010. This Court imposed a condition that the petitioner should deposit a sum of Rs.3,00,000/- for granting interim order. The petitioner complied with the said condition. In the meanwhile, G.O.Ms.No.236 Department of Housing and Urban Development dated 29.10.2010 came to be issued offering certain benefits for the loanees, like the writ petitioner. The said Government Order insisted that loanees must pay the principal loan amount and 90% of the interest amount. There was a total waiver in the matter of levy of penal interest. Calculating her liability in terms of the aforesaid Government Order, the petitioner approached the respondents and paid the balance amount of Rs.78,000/-. The respondents took the stand that the petitioner cannot claim the benefit of the Government Order and declined to receive the Demand Draft given by the petitioner for a sum of Rs.78,000/-. That led to the filing of second writ petition W.P.(MD)No.7106 of 2011. This Court granted interim order for reception of the Demand Draft for a sum of Rs.78,000/-. The Demand Draft has been received and encashed also.



3. Now it is seen that if the Government Order is applied, the petitioner would not have any arrear at all. Of course the learned counsel appearing for the society would contend that the petitioner is not entitled to the benefit of the Government Order.

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4. The learned counsel appearing for the society while disputing the applicability of the Government Order to the petitioner would state that the earlier amount of Rs.3,00,000/- directed to be deposited by this Court would be treated as interest.

5. I am not persuaded by the objection raised by the learned counsel appearing for the society. The direction to deposit a sum of Rs.3,00,000/- was issued by the Court for granting interim order in W.P.(MD)No.7288 of 2010. In other words, the manner of appropriation has to be decided by this Court. Since the applicability of the Government Order to the case of the petitioner cannot be doubted, I direct the society to appropriate the amount of Rs.3,00,000/- paid by the petitioner towards principal loan liability. Since the appropriation of the amount has been clarified by this Court, nothing survives for further direction.

6. These writ petitions are allowed. The respondents are directed to return the original title deeds to the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To:

1. The Principal Secretary,
Government of Tamil Nadu,
Department of Housing and Urban Development,
Fort St. George, Chennai.
2. The Deputy Registrar(Housing),
Virudhunagar Region,
Virudhunagar.
3. The Registrar of Co-operative Societies
(Housing), Chennai - 600 020.
4. The Co-operative Sub Registrar
(Housing)/Arbitrator,
Paramakudi,
Ramanathapuram District.
5. The Secretary, NN.11,Paramakudi Co-operative,
Building Society Limited,
Paramakudi,
Ramanathapuram District.

+1 CC to Mr.D.SADIQ RAJA, Advocate (SR-2729[F] dated 02/02/2021)

W.P. (MD)No.7288 of 2010
& W.P. (MD)No.7106 of 2011
01.02.2021

KM (15.02.2021) 4P 7C