

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.07.2022

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.22544 of 2017

and

W.M.P.Nos.23674 & 23675 of 2017

M.Murugesan

...Petitioner

Vs.

1. The District Registrar,
Housing Co-Operative Societies,
Salem Region, Salem District.
2. The Joint Registrar,
Salem Zonal,
Housing Co-Operative Societies Office,
Salem - 1.
3. The Deputy Registrar,
Co-Operative Society,
Omalur Circle, Omalur,
Salem District.
4. The Executive Officer,
Housing Co-Operative Societies,
SLM.HSG.69, Omalur,
Omalur Taluk, Salem District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the auction notice dated 17.07.2017 passed by the first respondent and quash the same.

For Petitioner : Mr.M.Elango

For R1 : Mr.M.Shahjahan,
Special Government Pleader

For R2 & R3 : Mrs.C.Meera Arumugam
Additional Government Pleader

For R4 : Mr.L.P.Shanmugasundaram

O R D E R

The petitioner has challenged the impugned auction notice dated 17.07.2017 of the first respondent District Registrar, Housing Co-Operative Societies. The petitioner has been in arrears of poultry loan which was borrowed from the fourth respondent. As per the fourth respondent, the total amount due as on 31.05.2022 is Rs.12,90,116/- It is submitted that at the time of admission of this case, by an interim order dated 23.08.2017, this Court had directed the petitioner to pay a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to the fourth respondent society on or before 04.09.2017. It appears that the petitioner has deposited only a sum of Rs.45,000/- (Rupees Forty Five Thousand only) on 05.09.2017.

2. The learned counsel for the fourth respondent submits that the present Writ Petition is devoid of merits as the petitioner has an alternate remedy before the Appellate Authority under the provisions of the Tamil Nadu Co-operative Societies Act, 1983. It is submitted that an award dated 30.06.2016 came to be passed by the third respondent in ARC No.22/2014-15. However, without challenging the same, the petitioner has challenged the impugned auction notice.

3. I have considered the arguments advanced by the learned counsel for the petitioner and the learned Special Government Pleader for the first respondent and the Additional Government Pleader for the second and third respondents and the learned counsel for the fourth respondent.

4. Though the petitioner owes a sum of Rs.12,90,116/- to the fourth respondent which is the due as on 31.05.2022, the petitioner has paid only a sum of Rs.45,000/- on 05.09.2017 in partial compliance of the interim order dated 23.08.2017 of this Court in this Writ Petition. The petitioner has not filed any appeal against the award dated 30.06.2016 passed by the third respondent in A.R.C.No.22/2014-15, copy of which, according to the petitioner, has not been served on him.

5. Since a copy of the award dated 30.06.2016 passed by the third respondent in A.R.C.No.22/2014-15 has not been served on the petitioner, the respondents are directed to furnish the same to the petitioner, within a period of ten days from the date of receipt of a copy of this order.

6. Therefore, liberty is given to the petitioner to challenge the award dated 30.06.2016 before the Appellate Authority within a period of forty five days from the date of receipt of a copy of this order along with a deposit of a sum of Rs.2,05,000/- [Rs.2,50,000 - Rs.45,000] as was ordered by this

Court vide interim order dated 23.08.2017.

7. On receipt of such appeal along with the proof of payment of aforesaid amount, the said appeal shall be entertained by the Appellate Authority and disposed on merits and in accordance with law.

8. In case the petitioner fails to deposit within such time, this order will stand automatically vacated and this Writ Petition will be deemed to have been dismissed.

9. This Writ Petition stands disposed with the above directions. No cost. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

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To

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Housing Co-Operative Societies,
Salem Region, Salem District.
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Salem District.
4. The Executive Officer,
Housing Co-Operative Societies,
SLM.HSG.69, Omalur,
Omalur Taluk, Salem District.

+1cc to the Government Pleader, S.R.No.42928

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SJ(CO)
RGA(26/07/2022)