



Rev.Aplw.No.34/2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

Rev.Aplw.No.34/2022

K.Selvaraj

... Petitioner

Vs.

1.The Arbitrator/Sub Registrar of Cooperative
[Housing Development], Sankari
Salem District.

2.The Special Officer [Cooperatives]
S 1565, Palace Nagar Cooperative Housing
Building Society Ltd., Palace Towers
Cherry Road, Salem 1.

... Respondents

Prayer : Review Application filed under Order 47 Rule 1 and 2 read with section 114 of CPC challenging the judgment dated 19.01.2022 made in WA.No.2565/2021.



Rev.Aplw.No.34/2022

For Petitioner : Mr.R.Nalliyappan
For R1 : Mrs.M.Geetha Thamaraiselvan,SGP
For R2 : Mr.C.Jayaprakash, Standing Counsel

ORDER

[Order of the Court was made by S.S.SUNDAR, J.,]

- (1) This Review Application is filed against the judgment of this Court dated 19.01.2022 made in WA.No.2565/2021. The writ petitioner who is the appellant in WA.No.2565/2021 is the review applicant herein.
- (2) Brief facts that are necessary for the disposal of this review application are as follows:
- (3) The 2nd respondent is the Cooperative Housing Building Society which is registered under the Cooperative Societies Act. The Society executed a project to build houses and to sell the same to the members of the Society. It is admitted that Flat No.7 in Block No.E [1st Floor] was allotted to the review applicant on 07.07.2001. The total consideration fixed for the flat was Rs.9,47,100/- and the said amount was payable before 2007.



WEB COPY

(4) Admittedly, the petitioner was unable to pay the money. However, it is contended by the petitioner that he could not avail the loan since the Society did not give No Objection Certificate as required to enable him to avail the loan. The petitioner challenged the order cancelling the allotment before the Arbitrator. The Arbitrator, the Sub Registrar, Cooperative Societies, rejected the petitioner's claim by a speaking order dated 03.09.2011. The Sub Registrar of the Cooperative Societies, found that the writ petitioner/review applicant though was required to pay a sum of Rs.9,47,100/-, has paid only a sum of Rs.2,00,000/- as on the date and therefore, the cancellation of allotment and re-allotment of house are binding and the review petitioner who has committed default, cannot be shown any indulgence.

(5) Thereafter, the review petitioner challenged the order of Sub Registrar, Cooperative Societies, before the District Court in CMA.CS.No.20/2011 and the District Court, relying upon the materials placed on record, was not inclined to interfere with the order, and confirmed the order dated 03.09.2011 passed by the Sub Registrar. The petitioner thereafter, filed a writ petition in WP.No.15101/2020 challenging the order of the learned



WEB COPY

Principal District Judge, Salem, in CMA.CS.No.20/2011 dated 30.08.2019. The writ petition was also dismissed holding that no ground was made out to interfere with the order cancelling allotment. Aggrieved by the same, the writ petitioner filed WA.No.2565/2021.

(6)The writ appeal was also dismissed by this Court vide judgment dated 19.01 holding that the order of the learned Single Judge is perfectly in order and no ground is made out to interfere with the said order.

(7)Even though this Court recorded the fact that the writ petitioner is in possession of the property, the writ appeal was closed with liberty to the respondents to take recourse to any proceedings to secure vacant possession from the writ petitioner/appellant. The writ petitioner who is also the appellant in writ appeal, has filed the present review application to review the judgment made in WA.No.2565/2021 raising several grounds.

(8)The learned counsel for the petitioner though raised several grounds, this Court is unable to countenance any of the arguments of the learned counsel or the grounds raised in the memorandum of review. On the admitted facts, the review applicant has not paid the amount as per the



WEB COPY

terms and conditions of the allotment Therefore, the allotment was cancelled after due process. The petitioner challenged the order cancelling allotment by raising a dispute and his claim was turned down. When the petitioner filed a petition to set aside the order of Arbitrator, the same was dismissed. Thereafter, the petitioner filed the writ petition in WP.No.15101/2020 challenging the order of Principal District Judge in CMA.CS.No.20/2021. This was dismissed holding that the petitioner has not established any ground to set aside the Award under Section 34 of Arbitration Act. Thereafter, the writ appeal in WA.No.2565/2021 is also dismissed. Now review application is filed to review the order. This Court and Hon'ble Supreme Court, time and again has ruled that unless there is error apparent on record, there is no scope for entertaining a review. The review is on the same grounds on which the writ petition was filed. The review application is not rehearing the appeal. No ground is made to review the order.

(9)In the result, the review application is dismissed. However, considering the fact that the petitioner has also paid the sum of Rs.2 lakhs and this litigation is pending for a long period of time, this Court only directs the



Rev.Aplw.No.34/2022

WEB COPY

respondents to permit the petitioner also to participate in any auction if any, conducted by the respondents in future. No costs.

[SSSRJ] [SSKJ]
02.09.2024

AP
Internet : Yes

To

- 1.The Arbitrator/Sub Registrar of Cooperative
[Housing Development], Sankari
Salem District.
- 2.The Special Officer [Cooperatives]
S 1565, Palace Nagar Cooperative Housing
Building Society Ltd., Palace Towers
Cherry Road, Salem 1.



WEB COPY



Rev.Aplw.No.34/2022

S.S. SUNDAR, J.,
and
SATHI KUMAR SUKUMARA KURUP, J.

AP

Rev.Aplw.No.34/2022

02.09.2024