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W.P. No. 19778 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 19778 of 2023
and
W.M.P. No. 19072 of 2023**

1. P.Kirubakaran

2. K.Megala

... Petitioners

-VS-

1. The Joint Registrar of Co-operative Societies,
Salem Region,
Salem,
Salem District.

2. The Deputy Registrar of Co-operative Societies,
Salem Region,
Salem,
Salem District.

3. Salem Urban Co-operative Bank Ltd.,
Represented by the Co-operative Sub-Registrar/Sale Officer,
Kitchipalayam,
Salem – 636 001.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling for the records relating to the sale notice dated 10.05.2023 in Loan ML 2037 of the Third Respondent and quash the same.



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For Petitioners : Mr. K.Selvaraj

For Respondents : Mr. U.Baranidharan,
Additional Government Pleader
(for R1 & R2)

Mr. V.Manoharan,
Additional Government Pleader (for R3)

ORDER

Heard Mr. K.Selvaraj, Learned Counsel for the Petitioners, Mr. U.Baranidharan, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. V.Manoharan, Learned Additional Government Pleader appearing for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. It is the case of the Petitioners that they had availed loan from the co-operative society of the Third Respondent for which they had pledged their property as security and when they could not make payment of the monthly installments during Covid pandemic, the Respondents have proceeded to issued sale notice dated 10.05.2023 stating that dispute in Case No. 50/21-22 has been



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raised against them in which order has been passed for sale of property and the property was brought to sale on 26.07.2023 based on the order passed in Execution Petition No. 14/22-23 without issuing any notice to them in Case No. 50/21-22 and Execution Petition No. 14/22-23. In that backdrop, the Petitioners have filed this Writ Petition challenging the sale Notice in Loan No. ML.2037 dated 10.05.2023 issued by the Third Respondent.

3. According to the Petitioners, the arbitral award determining the liability of the Petitioners under Section 90 of the Tamil Nadu Co-operative Societies Act, 1983, has not been served on him.

4. In response, Learned Additional Government Pleader appearing for the Third Respondent submits that the Order in Thava No. 50/2021-2022 dated 12.10.2022 passed by the Second Respondent had been sent by Registered Post and it had been returned with postal endorsement 'unclaimed' on 07.01.2023. However, the said postal cover has been opened in Court today and Learned Counsel for the Petitioners has received the copy of the said order and he has made an endorsement to that effect in the court record.



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5. In such circumstances, Learned Counsel for the Petitioners seeks permission of the Court to withdraw the Writ Petition reserving the rights of the Petitioners to challenge the Order in Thava No. 50/2021-2022 dated 12.10.2022 passed by the Second Respondent before the proper forum in the manner recognized by law.

In view of the same, the Writ Petition is dismissed as withdrawn with the aforesaid clarifications. It is made that clear for the purpose of reckoning limitation for availing the aforesaid remedy, the period from the date of filing of the Writ Petitions, viz., 20.06.2023, till the date on which the certified copy of this order is made ready by the Registry, shall be excluded. Consequently, the connected Miscellaneous Petition is closed. No costs.

29.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 18.04.2024.

vjt

To

1. The Joint Registrar of Co-operative Societies,
Salem Region,
Salem,
Salem District.



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2. The Deputy Registrar of Co-operative Societies,
Salem Region,
Salem,
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3. Salem Urban Co-operative Bank Ltd.,
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P.D. AUDIKESAVALU, J.

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