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W.P.No.30746 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.30746 of 2017
and W.M.P.Nos.33656 & 33657 of 2017

R.Maniyammal

...Petitioner

Vs.

1.The Registrar of Co-Operative Societies (Housing)
No.22, 4th Main Road,
Gandhi Nagar, Adayar,
Chennai – 600 020.

2.Deputy Registrar of Co-operative Societies (Housing)
Salem Region,
East Gardan Road, Failands,
Salem -16.

3.The Cooperative Sub Registrar (Housing)
Salem, Salem District.

4.The Secretary/Special Officer,
Attur Taluk, Co-operative Housing Society Ltd.,
No.SLM. HSC-66, Attur,
No.12, 1st Gandhi Road (Near Gandhi Statue)
South Udayarpalayam,
Attur, Salem – 636 102.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 3rd respondent dated 08.11.2017 which was served on 21.11.2017 and quash the same and consequently direct the fourth respondent to grant extension of time for making payment of Rs.1,50,427/- in view of the Hon'ble Division Bench order made in W.A.No.16/2016 dated 04.04.2016 with respect to the Housing Loan availed by the petitioner's husband deceased Rajendran for the house situated at M.B.Nagar, Vethanayagapuram, Kamakkapalayam (Post), Attur Taluk, Salem District.

For Petitioner : Mr.S.Vijayanand
for Mr.T.Arul

For Respondents 1 to 3 : Mr.R.U.Dinesh Raj Kumar
Additional Government Pleader

For Respondent 4 : Mr.A.Radhakrishnan

ORDER

The writ petition is filed challenging the impugned notice issued by the 3rd respondent, calling the petitioner for enquiry in an application filed by the 4th respondent for issue of Recovery Certificate.

2.According to the petitioner, her husband obtained an housing loan of Rs.2,00,000/- from the 4th respondent. Due to sudden demise of her husband, the petitioner had committed default in repayment of the loan. The petitioner



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submitted a representation on 18.06.2015 to the respondents, seeking waiver of the loan on account of death of her husband and the same has not been considered. Therefore, the petitioner filed the writ petition in W.P.No.17589 of 2015, seeking direction to the respondents to waive the loan obtained by her husband. The said writ was allowed. In Writ Appeal.No.16/2006 filed by 4th respondent challenging allowing of writ, the first Bench of this Court by taking into consideration that the petitioner's family is entitled to benefit of the circular in circular No.11267/2011-2012/A1, dated 01.03.2012, directed the 4th respondent to extend the benefit of waiver as per the Circular to the petitioner and intimate her about the exact amount payable with interest after extending the benefit of waiver.

3.In pursuance of the direction, the 4th respondent sent a communication dated 31.07.2017, directing the petitioner to pay a sum of Rs.1,50,427/- after applying benefit of waiver to the petitioner. However, the petitioner failed to pay that amount and avail the benefit extended to her. Thereafter, on the basis of the application filed by the 4th respondent under Section 150 of the Tamil Nadu Cooperative Societies Act, 1983 the 3rd respondent issued impugned notice to the petitioner to attend an enquiry for issuing Recovery Certificate.



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4.The learned counsel for the petitioner assailed the impugned notice mainly on the ground that the 4th respondent failed to intimate the exact amount payable by the petitioner with interest as directed by this Court in W.A.No.16 of 2016.

5.A perusal of documents filed in the typed set of papers would suggest that in pursuance of the direction issued by this Court in the above said Writ Appeal, a communication was addressed to the petitioner by the 4th respondent on 31.07.2017, indicating that the petitioner was liable to pay a sum of Rs.1,50,427/-. However, the petitioner failed to pay that amount also. Therefore, the 4th respondent appeared to have move the 3rd respondent for issuance of Recovery Certificate under Section 150 of the Tamil Nadu Cooperative Societies Act, 1983. The 3rd respondent in turn issued impugned notice calling the petitioner to appear for enquiry. Though this Court passed an order directing the respondents to indicate the petitioner about the sum payable by her after extending the benefit of waiver scheme, the petitioner failed to avail the benefit extended to her in spite of communication by the 4th respondent dated 31.07.2017. In such circumstances, the 4th respondent has no



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other option but to proceed further. In pursuance of the interim order granted in the present writ petition, the petitioner paid a sum of Rs.1,00,000/- on 30.12.2017.

6. When the writ petition is taken up for hearing, the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent on written instructions submits that as per the One Time Settlement Scheme in G.O.No.31 (Housing and Urban Development Department) dated 03.03.2023, the petitioner is eligible for waiver of default interest and penal interest. If that benefit is extended, as on today, the petitioner is liable to pay a sum of Rs.2,24,778/-. The calculation memo to that effect signed by the 4th respondent is also handed over to the learned counsel for the petitioner. In case, the petitioner wants to avail the waiver scheme as on today, the petitioner has to pay the above said amount of Rs.2,24,778/- on or before 02.09.2023 and avail the benefit of the existing scheme. Therefore, the petitioner is granted time till 02.09.2023, to pay the amount mentioned above. Till then, the 3rd respondent shall not proceed further in pursuance of the impugned notice. In case, the petitioner fails to pay the amount as per the existing waiver scheme, it is open to the 3rd respondent



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to proceed further and pass necessary orders in accordance with law. In case petitioner paid above said amount on or before 02.09.2023, the 3rd respondent shall issue certificate that loan amount got discharged and close the loan account.

7. With the above direction, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

21.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
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To

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S.SOUNTHAR, J.

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