



W.P(MD)No.26643 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.26643 of 2023

Kasiyammal

... Petitioner

Vs.

- 1.The State represented by
The Secretary,
Housing and Urban Development Department,
Secretariat,
Chennai – 600 009.
- 2.The Registrar of Co-operative Societies
(Housing),
Tamil Nadu Co-operative Society Limited,
No.22, 4th Main Road,
Gandhi Nagar, Adayar,
Chennai – 600 020.
- 3.The Deputy Registrar of
Co-operative Societies (Housing),
No.15, Melur Main Road,
Opp to Thiruvallur Bus Stop,
Madurai – 625 020.



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4.The Secretary,
A.2683 – Madurai Town Co-operative
Housing Society Limited,
No.12, Kaathukondan Thoppu Street,
Tamil Sangam Road,
Madurai – 625 001.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 3 and 4 to cancel the entire interest amount for the construction loan borrowed by the petitioner and her husband from the fourth respondent in Loan No. 15000060065538 dated 06.06.2000 in the light of G.O(MS)No. 40 Housing and Urban Development Department, dated 16.03.2015 and G.O(Ms)No.31 Housing and Urban Development Department, dated 03.03.2023.

For Petitioner : Mr.M.Vivek Kumar

For Respondents : Mr.S.RA.Ramachandran
Additional Government Pleader

ORDER

Heard both sides.

2. The writ petitioner and her husband Gurusamy were members of the fourth respondent Society. They were sanctioned housing loan for



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Rs.4,00,000/- in the year 2000. A sum of Rs.2,80,000/- was initially disbursed. The purpose of the loan was to enable the petitioner to put up a storeyed construction. It appears that the petitioner was not in a position to effect construction as originally proposed. Therefore the fourth respondent Society did not disburse the balance loan amount.

3. The petitioner had issues with his vendor. There was also civil litigation pending. In these circumstances, the petitioner did not service the loan account. Even when Samadhan Scheme was introduced, the petitioner failed to avail the same. The Society had been periodically issuing notices to the petitioner. There was no response. Finally when the Government issued G.O(Ms)No.31 Housing and Urban Development Department dated 03.03.2023, the fourth respondent sent one more notice to the petitioner. The stand of the respondents is that the petitioner failed to act in terms of the aforesaid Government Order and that the petitioner can no longer avail the concession.

4. The condition of the petitioner appears to be rather pathetic. I am therefore inclined to adopt an indulgent approach. G.O(Ms)No.31



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Housing and Urban Development Department dated 03.03.2023 has made it clear that the borrowers will have to avail the concession within six months. It was issued on 03.03.2023. Six months period would expire on 02.09.2023. The petitioner instead of approaching the fourth respondent went before the Legal Services Authority on 09.08.2023. Summon was issued to the fourth respondent and the case was adjourned to 16.08.2023. On 16.08.2023, the fourth respondent did not appear and hence the case was adjourned to 31.08.2023. On 31.08.2023, the petitioner informed the Legal Services Authority that she had already paid a sum of Rs.1,00,000/- to the fourth respondent and that she would pay the balance amount within a period of three months. Since the fourth respondent cannot go beyond the terms of the Government Order, the present writ petition came to be filed.

5. If the liability of the petitioner is computed in terms of the aforesaid Government Order it now comes to Rs.10,40,000/- as on date. The petitioner had already paid a sum of Rs.1,00,000/-. Therefore, it has to be scaled down to Rs.9,40,000/- (Rupees Nine Lakhs Forty Thousand only). The petitioner is now ready to pay a further sum of Rs.9,40,000/-



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(Rupees Nine Lakhs Forty Thousand only). It is true that in fact this amount should have been paid by the petitioner directly to the fourth respondent on or before 02.09.2023. But the petitioner had unfortunately gone before the Legal Services Authority. For this lapse, the petitioner need not be penalised. Though the petitioner may not have a legal right as such, considering the special facts and circumstances of this case, I permit the petitioner to approach the fourth respondent by tomorrow (29.11.2023) and remit the balance amount of Rs.9,40,000/- (Rupees Nine Lakhs Forty Thousand only).

6. The fourth respondent is directed to accept the same towards full and final settlement of all the petitioner's dues. The petitioner shall thereupon address a communication to Tamil Nadu Co-operative Housing Federation for return of the original documents. It is stated by the fourth respondent through the learned Additional Government Pleader that there may not be impediment for the federation to release the document upon payment of this amount. The Federation shall return the original title deeds to the fourth respondent and thereafter the fourth respondent will handover the same to the petitioner herein.



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7. This writ petition is allowed on these terms. There shall be no order as to costs.

28.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
MGA

Note: Issue order copy on 28.11.2023.

To

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Chennai – 600 009.

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G.R.SWAMINATHAN, J.

MGA

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