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C.R.P.(Npd)No.2302 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :18.07.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P(Npd).No.2302 of 2021
and C.M.P.Nos.17401 of 2021 and 9700 of 2022

P. Kanagavalli

...Petitioner

VS-

1. The Deputy Registrar(Housing),
Salem Region,
Fairlands, Salem- 636 016

2. The Secretary,
Salem Co-operative Housing Board Society,
No. S. 1329, Kathuri Nilayam,
165, Cherry Road, Salem- 636 001

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India praying to set aside the order passed in C.M.A.C.S. No.27 of 2019, on the file of Principal District Judge, Salem dated 24.06.2020 confirming the Sale Notice issued by the Deputy Registrar (housing), Salem Region, Salem in Loan No.817/ML, dated 12.11.2018.

For Petitioner

: Mr. M. Prabakaran

for M/s.Swaminathan Law Asso.

For Respondents

: Mr. B. Tamil Nidhi

Additional Government Pleader



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ORDER

The above Civil Revision Petition is filed challenging the order passed in C.M.A.C.S.No.27 of 2019 by the Principal District Judge, Salem.

2. The facts are briefly set out herein below:

(i) The revision petitioner had obtained a loan of Rs.65,000/- by mortgaging her house property. The petitioner had defaulted in repayment of loan and as on 04.02.2006, she was liable to pay a total sum of Rs.1,75,958/- to the 2nd respondent.

(ii) At the instance of the 2nd respondent, surcharge proceedings under Section 90(1)(b) of the Tamil Nadu Cooperative Societies Act were initiated against the petitioner. The 1st respondent, by Award dated 02.02.2006, had directed the petitioner to pay a sum of Rs.1,75,000/- to the 2nd respondent with future interest @ 20% per annum plus costs failing which the same was to be realized from the mortgaged property. Challenging the said Award, there was no further appeal by the



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petitioners herein and the same had attained finality. Thereafter, the 2nd respondent-Society had initiated execution proceedings in E.P.No.156 of 2006-2007 on the file of the District Registrar of Cooperative Societies (Housing) Salem Region, the 1st respondent herein. By order dated 04.02.2006, the 1st respondent had ordered the auction sale of the mortgaged property and has issued a sale notice. It is challenging the sale notice in the execution proceedings that the petitioner is before his Court on the sole allegation that the notice in the execution proceedings was not served on the petitioner and that the proceedings is barred by Limitation.

3. The learned Principal District Judge had framed the following points for consideration:

1. That the notice of the 1st respondent is contrary to law and weight of evidence and probabilities of the case.

2. That the impugned notice is violation of natural justice.



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3. *That the impugned notice is very mechanical one there is no particulars disclosed in the notice*

4. *The first respondent when issuing any notice on any application made to him for such recovery or to take some steps in aid of such recovery or take some steps in aid of such recovery, the first respondent has failed to consider that the proceeding is barred by limitation and all other grounds.*

4. During the course of argument before the learned Principal District Judge, Salem, the petitioner had submitted that the 1st respondent had not followed any procedure but has directly passed the order and sent notice to the petitioner. Further, the procedures contemplated under the Rule 148 of the Tamil Nadu Cooperative Societies Rules have not been followed. Whenever a notice was sent to her, the 2nd respondent has deposited the amounts to the petitioner herein. However, in the instant case, the 1st respondent had not deposited any amount into the credit of the execution proceedings. That apart, the execution proceedings were barred by limitation. The learned Judge held



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against the petitioner by holding that the execution proceedings had been commenced in the year 2016 itself. From the date of the execution proceedings, amounts were not paid by the petitioner herein. The learned Judge also observed that no appeal had been filed challenging the Award and the execution proceedings being only a sequel to the award the appeal was not maintainable. Agrieved by which, the petitioner is before this Court.

5. Heard the learned counsels on either side and perused the materials available on record.

6. Admittedly, the Award dated 04.02.2006 has not been challenged to date by the petitioner and the same has attained finality. It is this unchallenged Award that is sought to be executed. The ground that has been raised in the civil revision petition is that there has been a non-application of mind on the part of the respondents. Notice of sale has been issued in the mechanical manner, without perusing the records and the facts and circumstances. The request for an extension to re-pay the loan has also been brushed aside by the respondents. The execution



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petition has been filed to enforce the order of the 1st respondent.

Therefore, the finding of the learned Principal District Judge in rejecting the appeal cannot be countenanced. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

18.07.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
srn

To,

1. The Principal District Judge, Salem
2. The Deputy Registrar(Housing),
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Fairlands, Salem- 636 016
3. The Secretary,
Salem Co-operative Housing Board,
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P.T.ASHA, J.,

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