



C.R.P.No.2183 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.2183 of 2021
C.M.P.No.16581 of 2021

1.G.Duraisami

2.D.Santhi

3.D.Thilagar

4.D.Muniammal

5.D.Yuvaraj

...Petitioners

Vs

1.The Secretary

S.1523, Dr.Amethkar Salem District,
Co.Operative House Building Society,
9, Paul Street,
Fort, Salem – 636 001.

2.The Deputy Registrar of

Cooperative Society (Housing Board)

Salem - 1

...Respondents

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to challenge the fair order and decreetal order dated 16.03.2021 passed in C.M.A.(C.S).No.4 of 2018 in O.S.No.1533 of 2002 on the file of Principal District Judge, Salem.

For Petitioners : Mr.J.Sudhakaran

For Respondent : Mr.M.S.Palaniswamy for R1



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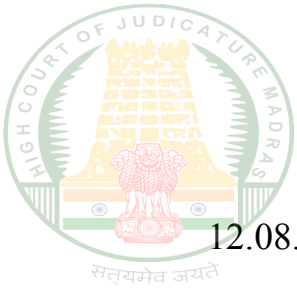
ORDER

Challenging the dismissal of the appeal filed under Section 152 (1)

(a) of Tamil Nadu Co-operative Societies Act in and by which the learned Principal District Judge, Salem, had confirmed the award passed by Second respondent, the petitioners are before this Court.

2.The facts which are culminated in filing of the above revision is herein below set out:-

The Suit O.S.No.1533 of 2002-2003 was initiated against the petitioners herein by the respondent Society for recovery of a sum of Rs.14,98,283/- due under a mortgage loan. The appellants/defendants would submit that on 17.02.2000, they have obtained a mortgage loan of Rs.2,50,000/- by mortgaging the property and agreeing to repay the same with interest at the rate of 16.5% per annum in 180 equal monthly installments and had also agreed to pay interest at the rate of 18% per annum in case of a default. The first respondent Society would submit that the appellants/defendants had defaulted in the payment of the loan amount and as on 21.10.2002, the outstanding was a sum of Rs.14,98,283/-. Therefore, the first respondent society had filed a petition before the second respondent. The second respondent by an award dated



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12.08.2016 was pleased to hold in favour of the first respondent Society.

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Challenging the same, the petitioners had filed C.M.A.C.S.No.4 of 2018 on the file of the learned Principal District Judge, Salem. The learned Principal District Judge, Salem, had also confirmed the order passed by the second respondent herein. Aggrieved by the same, appellants/defendants are before this Court.

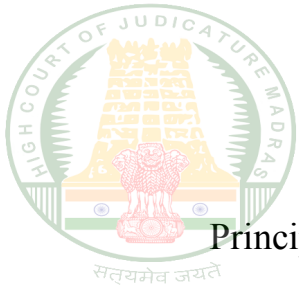
3.Mr.Sudhakaran, the learned counsel appearing on behalf of the petitioners would submit that first respondent Society had issued a communication on 19.02.2019 calling upon the petitioners herein to accept a one time offer to settle the outstanding dues in and by which they had stated that if the petitioners are agreeable then the interest for the defaulted equated monthly installments and penalty shall be waived provided the principle and interest are paid and the communication further stated that it can be processed if the agreed amount could be sent by ECS. He would submit that the said amount as directed has been deposited pursuant to the orders of this Court dated 08.10.2021. Therefore, the dismissal of their appeal by the learned Principal District Judge, Salem, is totally without any legal basis. Therefore, the revision should be allowed.



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4.Heard the learned counsel appearing on behalf of the petitioners and perused the records.

5.From the perusal of the records and the arguments on either side, the impugned order had been passed by the second respondent on 12.08.2016 directing the petitioners herein to pay the sum of Rs.14,98,283/- together with interest at the rate of 14% and penalty at 1% from 12.08.2016 till the date of recovery. Challenging this order appeal had been filed in the year 2017. Pending the appeal, this one time offer had been given. However, the amount as directed has not been paid. Ultimately, the appeal was dismissed on 16.03.2021 and it is only pursuant to the orders of this Court dated 08.10.2021 that a sum of Rs.4,97,607.39/- has been paid. The one time settlement offer was for a limited period. The offer was made on 2019 and two years later the judgment in C.M.A.C.S.No.4 of 2018 had been passed. The amounts as stated in the one time settlement has been paid only in the year 2021 and beyond the date given in the offer dated 19.02.2019. The petitioners cannot therefore contend that they are entitled only to pay the amount as set out in the letter dated 19.02.2019. There is no other reason that has been put forward for setting aside the order passed by the learned



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Principal District Judge, Salem, in C.M.A.(C.S).No.4 of 2018 in

WEB COPY O.S.No.1533 of 2002 .

6.Accordingly, this Civil Revision Petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

19.02.2025

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

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P.T.ASHA, J,

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To

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2.The Secretary

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