



W.P.No.29057 of 2017

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2025

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.29057 of 2017
and W.M.P.No.31289 of 2017

M.Gopalakrishnan

...Petitioner

-Vs-

1.The Registrar of the District,
Salem Region,
Salem.

2.The Arbitrator,
Sub Registrar Co-operative Societies,
Erode District.

3.Punjai Puliampatty Co-operative
Building Society Ltd (AA 343)
Punjam Puliampatty,
Sathyamangalam Taluk,
Erode District.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari to call for the records relating to the impugned proceedings of the 1st respondent Form No.9 dated 26.09.2017, quash the same.

For Petitioner : M/s.A.Mohamed Ismail

For Respondents : Mr.K.Tamil Vendhan
Government Advocate for R1 & R2
Mr.Ma.P.Thangavel for R3

ORDER

The writ petition is filed to quash the impugned order passed by the 1st respondent form No.9 dated 26.09.2017.

2.Learned counsel appearing for the petitioner would submit that the petitioner along with Father and Mother have availed a loan for a sum of Rs.1,00,000/- from the 3rd respondent in the year 1999. He was paying the instalments but was irregular and the payment was not properly accounted. He further submitted that the 1st respondent has issued auction notice dated 26.09.2017 to auction the property belonging to the petitioner.

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3.Learned counsel would further submit that the amount paid by the petitioner is a sum of Rs.1,59,392.25/-, according to the memo of calculation, dated 18.02.2025, which includes Rs.75,000/- which was paid to the 3rd respondent pursuant to the order passed by this Court on 14.11.2017, while granting an order of the interim stay. Learned counsel for the petitioner further submitted that the borrower namely M.Gopalakrishnan has passed away and the Death Certificate dated 09.11.2018 is also furnished before this Court along with legal heir certificate dated 29.03.2019 by way of typed set off papers.

4.There is no representation for the 3rd respondent/Society.

5.Learned Government Advocate appearing for the respondents 1 & 2 in view of the interim stay granted by this Court on 14.11.2017 state that they have not proceeded with the auction of the property. He further submitted that apart from Rs.75,000/- which was paid pursuant to the interim

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order dated 14.11.2017 the petitioner is not in a position to say what was the amount he has already paid to the 3rd respondent and has no proper instruction in this regard from the 3rd respondent.

6.Heard both sides and perused the materials available on record.

7.In the case on hand, the petitioner along with his father and mother borrowed a loan for a sum of Rs.1,00,000/- in the year 1999. Thereafter, he was making some payment which was irregular and according to the petitioner's memo of calculation he has paid a sum of Rs.1,59,392.25/- which includes a sum of Rs.75,000/- which was deposited to the 3rd respondent pursuant to the conditional order passed by this Court on 14.11.2017 while granting an order of interim stay.

8.It is pertinent to note that borrower namely Gopalakrishnan has passed away on 09.11.2018 and the Death Certificate is also furnished before this Court along with legal heir certificate dated 29.03.2019 by way of typed set off papers.



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WEB COPY 9. According to the legal heir certificate, the petitioner has left behind the wife, Son and Daughter.

10. It is pertinent to mention that the loan amount is sum of Rs.1,00,000/-, even assuming that the petitioner has not paid any amount, he has paid Rs.75,000/- pursuant to the order of an interim stay passed by this Court on 14.11.2017 which is a admitted fact and is not disputed. The memo of calculation filed by this Court stated that he has already paid Rs.1,59,392.25/-, which has not been properly verified by the 3rd respondent till date. The 3rd respondent / Society is now defunct as on date, and the same is admitted by the learned counsel appearing for the 3rd respondent/Society on the earlier occasion on 04.03.2025.

11. In view of the above factual matrix of this case, the impugned proceedings of the 1st respondent in Form No.9 dated 26.09.2017 is liable to be quashed accordingly the same is quashed.



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WEB COPY12. Accordingly, the writ petition stands allowed. No costs.

Consequently, connected miscellaneous petition is closed.

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vsn

Index : Yes / No

Speaking / Non-Speaking Order

To

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Erode District.

3. Punjai Puliampatty Co-operative
Building Society Ltd (AA 343)
Punjam Puliampatty,
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J.SATHYA NARAYANA PRASAD, J.

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