

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.2680 of 2014 and 4601 of 2015

W.P.No.2680 of 2014:

G.Gowthaman

... Petitioner

vs.

1.The Manager,
The Tamil Nadu Industrial
Co-operative Bank Ltd.,
Thala Muthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.The Managing Director,
The Tamil Nadu Backward Classes
Economic Development Corporation Ltd.,
LLA Building, 735, Anna Salai,
Chennai - 600 002.

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the second respondent to cancel the mortgage by issuing a Certificate of Cancellation of Mortgage to the concerned Sub Registrar and further direct the first respondent to return the Sale Deed with Document No.360 of 1986, which was deposited with them as collateral security against the loan borrowed and subsequently discharged by the petitioner.

W.P.No.4601 of 2015

G.Napolean

S/o.A.Gurusamy

... Petitioner

vs.

Sub Registrar,
Manavalan Nagar,
Thiruvallur District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the

respondent to register the settlement deed pending in Document No.185 of 0214 on the file of the respondent.

For Petitioner : Dr.P.Vasudevan

For Respondents: Mr.M.L.Mahendran,
Government Advocate

C O M M O N O R D E R

Heard Dr.P.Vasudevan, learned counsel for petitioner and Mr.M.L.Mahendran, learned Government Advocate and perused the materials placed on record.

2. In these writ petitions, the petitioners seek for two different reliefs but both pertain to the same property.

3. Though in the prayer sought in W.P.No.2680 of 2014, the document number has been mentioned as 360 of 1986, the correct document number is 863 of 1986. In W.P.No.2680 of 2014, the petitioner is G.Gowthaman and he seeks for a direction to the second respondent to cancel the mortgage and issue a Certificate of Cancellation of Mortgage to the concerned Sub Registrar and further to direct the first respondent to return the original sale deed registered as document No.863 of 1986 which was deposited with the respondents towards collateral security for the loan borrowed by the writ petitioner and subsequently discharged by the writ petitioner. During the pendency of the writ petition, the first limb of the prayer has been complied with by the respondents inasmuch as they have issued Certificate of Cancellation of Mortgage to the concerned Sub Registrar and the same was registered as document No.4143 of 2014 on the file of Sub Registrar, Manavala Nagar, Thiruvallur District. So far as the second limb of the prayer is concerned, the petitioner would state that the respondents appear to have misplaced the original document No.863 of 1986 and they are searching for the same.

4. Since the petitioner has already discharged the mortgage loan and the same has been certified and the mortgage has been cancelled, the first respondent, being a Industrial Co-operative Bank, is bound to return the original document which has been offered as collateral security. Accordingly, there shall be a direction to the first respondent to return the original document No.863 of 1986 by making diligent search of the document within a period of six weeks from the date of receipt of a copy of this order. If for any valid reason, the original document is not available, the first respondent shall apply for certified copy of the same and certify that the same can be treated as original since the original document No.863 of 1986 was misplaced while in the custody of the respondents.

5. Insofar as W.P.No.4601 of 2015 is concerned, the petitioner is one G.Napolean, who is the brother of the other writ petitioner viz., G.Gowthaman. He has filed this writ petition seeking a direction to the Sub Registrar to register the settlement deed pending as document No.185 of 2014 without insisting on production of the original sale deed bearing document No.863 of 1986.

6. In W.P.No.2680 of 2014, a direction has been issued to the Tamil Nadu Industrial Co-operative Bank Ltd., to return the original document bearing No.863 of 1986 to the petitioner therein since it appears that the same has been misplaced by the first respondent. In such circumstances, the Sub Registrar, Manavalan Nagar, Thiruvallur District, is directed to accept the settlement deed pending as document No.185 of 2014 for registration if the same is otherwise in order, without insisting upon the production of the original sale deed bearing document No.863 of 1986.

These Writ Petitions are disposed of with the above direction.
No costs.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1.The Manager,
The Tamil Nadu Industrial Co-operative Bank Ltd.,
Thala Muthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

2.The Managing Director,
The Tamil Nadu Backward Classes
Economic Development Corporation Ltd.,
LLA Building, 735, Anna Salai,
Chennai - 600 002.

3.The Sub Registrar,
Manavalan Nagar,
Thiruvallur District.

+2 cc's to Dr.P.Vasudevan, Advocate,SR.14580

+1 cc to Government Pleader,SR.14759.

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