



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P (MD) Nos.9640 and 9641 of 2015

WEB COPY

Habib Raja ... Petitioner in W.P.(MD).No.9640 of 2015
Mohammed Fathima Beevi ... Petitioner in W.P.(MD).No.9641 of 2015

Vs.

- 1.The General Manager (Administration)
Tamil Nadu Co-operative Housing Federation,
No.48, Ritherdon Main Road,
Vapery,
Chennai - 7
- 2.The Deputy Registrar of Co-operative Societies (Housing),
15,Melur Main Road,
Opp.to Tiruvallur Bus Stop,
Madurai-20.
- 3.The Secretary,
A 2640, Natham Co-operative Building Society Ltd,
Natham,
Dindigul District.

... Respondents in both WPs

W.P.(MD).No.9640 of 2015: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus to direct the respondents to return all the original documents such as sale deed dated 04.10.2002 and patta etc are deposited with the third respondent on 19.07.2005 while availing the loan from the third respondent.

Prayer:WP.(MD).NO.9641/2015: Petition filed under Article 226 of the Constitution of India, to issue a writ of Mandamus to direct the respondents to return all the original documents such as gift settlement dated 10.04.2008 and patta etc are deposited with the third respondent on 16.09.2008 while availing the loan from the third respondent.

For both Writ Petitions :-

For Petitioners ... Mr.K.K.Kannan
For Respondents ... Mr.M.Murugan,
Govt. Advocate for R.1 & R.2

COMMON ORDER

Both the writ petitions have been filed seeking writs of Mandamus to return the original documents of the petitioners herein.

2. The case of the petitioners in both the Writ Petitions is that they have availed loan from the respondents and they promptly paid the said loan amount due to the Society. In spite of their strenuous



efforts to get back the original title deeds, their attempts went in vain resulting in filing of the Writ Petitions .

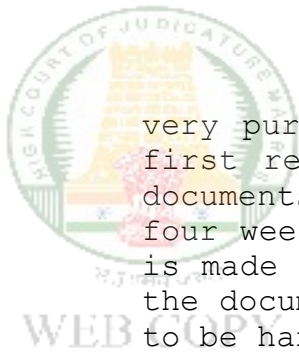
3. The learned counsel appearing for the petitioners would submit that it is unfair on the part of the respondents that even after repaying the loan amount, the respondents are withholding the petitioners and to get back the original title deeds, the petitioners are made to run from pillar to post for no fault of them.

4. The learned Government Advocate would submit that steps are being initiated to return the documents to the petitioners.

Heard both sides.

5. This Court has already dealt with the issue on hand in W.P (MD).No.6825 of 2015. The said Writ Petition was disposed of, by this Court, on 01.06.2015, with a direction to the respondents therein to release the documents of the petitioner therein. Again, an another Writ Petition came to be filed in W.P.(MD).No.6077 of 2015 which also came to be disposed of on 15.06.2015 with an observation to release the documents therein. The relevant portion is usefully extracted below:-

"....Admittedly, the loan availed by the petitioner was repaid by her husband wayback in the year 21.09.2006. The respondents have issued a Certificate dated 23.09.2006 to the effect that there is no due pending on the part of the petitioner and the entire amount was repaid by him. Even then the document has not been returned to the petitioner. When the petitioner invoked under the Right to Information Act regarding her document in question, the respondents have replied vide his letter dated 20.02.2012, that within a month the document would be returned to the petitioner. The Advocate Notice sent by the petitioner to the respondents also did not fructify except by giving an assurance once again by the respondents through his letter dated 25.03.2013 that within one month the documents would be returned to the petitioner. Thereafter, the petitioner has made representations on 19.02.2015 and 09.04.2015. In spite of all these strenuous efforts, the respondents appear to have once bitten twice shy. Having received back the loan amount due to the Society, the respondents are duty bound to return the documents to the petitioner without any delay, whatsoever. It is really unfortunate that the petitioner is forced to approach this Court to get her documents through litigation. It is to be noted that once the original documents are withheld by the respondents, the loanee may not be able to deal with the property for her cause or mortgage the property for an emergent need such as developing the business, meeting out the medical expenditure of her family members, conducting the marriage of her daughter and so on and so forth. Therefore, the respondents cannot simply sleep over the property of the petitioner citing over the administrative reasons. In the case on hand, more than eight years have gone by. Still, the documents are retained by the respondents for no fault of the petitioner. The respondents should not lose the sight of the fact that when a member is not able to get back the title deeds, even after the expiry of seven years, after paying the due amount to the Society, then the public will loose faith on the cooperative system and it will defeat the



very purpose of the cooperative movement itself. Therefore, the first respondent is directed to take immediate steps to get the documents released and return to the petitioner within a period of four weeks from the date of receipt of a copy of this order. It is made clear that there shall not be any more delay in returning the documents to the petitioner at any cost and the documents have to be handed over within the time prescribed in this order."

6. Following the earlier orders of this Court, the first respondent is directed to release the original title deeds of the petitioner within a period of six weeks from the date of receipt of a copy of this order. As observed in earlier orders, there shall not be any more delay in returning the documents to the petitioners at any cost and the documents have to be handed over within the time prescribed in this order.

Accordingly, both the writ petitions stand disposed of. No costs.

Sd/-
The Assistant Registrar(writs)

/True copy/

Sub-Assistant Registrar

To

- 1.The General Manager (Administration)
Tamil Nadu Co-operative Housing Federation,
No.48, Ritherdon Main Road,
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- 2.The Deputy Registrar of Co-operative Societies (Housing),
15, Melur Main Road,
Opp.to Tiruvallur Bus Stop, Madurai-20.
- 3.The Secretary,
A 2640, Natham Co-operative Building Society Ltd,
Natham, Dindigul District.

+2cc to M/s.K.K.Kannan, Advocate SR.No.31104,31105
+1cc to special Government Pleader SR.No.31373

ssm
Sm:29.06.2015:3P/7C

W.P (MD) Nos.9640 and 9641 of 2015
16.06.2015