

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 22.03.2016

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.10605 of 2016

Mrs.R.Malathi

.. Petitioner

Versus

- 1 The Managing Director
Tamil Nadu Cooperative Housing Federation
Limited No.48 Ritherdon Road Vepery
Chennai-600 007.
- 2 The Deputy Registrar of
Co-operative Societies Tamilnadu Housing
Society Building First Main Road Gandhi
Nagar Katpadi Vellore.
- 3 The Arcot Taluk Co-operative
Housing Society Ltd. No.N.A.HSG.21
Rep.by its Secretary Arcot
Vellore District.

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the third respondent to grant loan amount to the petitioner based on the mortgage deed dated 02.01.2015 in Doc.No.9 of 2015 by considering the petitioner representation dated 21.12.2015.

For Petitioner : Mr.T.Nirmaleswar

For Respondents : Mr.L.P.Shanmugasundaran
Special Government Pleader

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O R D E R

Heard Mr.T.Nirmaleswar, learned counsel for the petitioner, and Mr.L.P.Shanmugasundaram, learned Special Government Pleader, after accepting notice for the respondents. By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. The petitioner's case is that he approached the 3rd respondent society for a mortgaged loan. The title deeds of the property, which the petitioner offered as mortgage for the loan were scrutinised by the counsel for the 3rd respondent society and the mortgage deed dated 02.01.2015 was registered as Doc.No.9 of 15 on the file of the Sub Registrar, Kalavai.

3. The grievance of the petitioner is that till date, the loan has not been disbursed and there is no valid reason for the 3rd respondent to refuse to disburse the loan, having taken the registered mortgaged deed. Representation dated 23.02.2016 given to the respondents 1 and 2 has also not evoked any response and hence, the petitioner is before this Court.

4. The learned counsel for the petitioner has drawn the attention of this Court to the documents placed in the typed set of papers including the encumbrance certificate for the relevant period which shows that the mortgage deed is reflected as an encumbrance on the property.

5. In the light of the above, there will be a direction to the 2nd respondent to immediately cause an enquiry into the matter, by taking note of the petitioner's representation dated 21.12.2015, after notice to the petitioner and 3rd respondent and issue appropriate orders, if there is no other legal impediment, by directing the 3rd respondent to grant loan and on the other hand, if there is any legal impediment, obviously, the 3rd respondent cannot retain the mortgage deed and the same should be cancelled and the cost of the registration of cancellation of the mortgage deed, shall be borne by the 3rd respondent. The above direction shall be completed within two weeks from the date of receipt of a copy of this order. The writ petition is disposed of. No costs.

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-s/d-
Assistant Registrar (CS-IV)

True Copy

Sub-Assistant Registrar

To

- 1 The Managing Director
Tamil Nadu Cooperative Housing Federation
Limited No.48 Ritherdon Road Vepery
Chennai-600 007.

2 The Deputy Registrar of
Co-operative Societies Tamilnadu Housing
Society Building First Main Road Gandhi
Nagar Katpadi Vellore.

3 The Secretary,
Arcot Taluk Co-operative
Housing Society Ltd. No.N.A.HSG.21
Arcot Vellore District.

+ 1 cc to M/s.Nirmaleswar, Advocate, SR 18162

+ 1 cc to M/s.L.P.shanmugasundaram, Advocate, SR 18288

+ 1 cc to Govt.Pleader, High Court, Madras SR 18380

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