

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.02.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.35203 of 2015

Mr.P.Ponvel

.. Petitioner

Vs.

1. The General Manager,
Tamil Nadu Industrial Co-operative Bank,
Thalamuthu Natarajan Building,
Gandhi Irwin Road, Egmore, Chennai-600 008.

2. The Managing Director,
Tamil Nadu Backward Classes
Economic Development Crop. Ltd.,
LLA Building, No.735, Anna Salai,
Chennai-600 002.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to release the petitioner from the not-borrowed loan by cancelling the agreement relating to Deposit of Title Deeds, dated 03.05.1995, registered as Document No.984 of 1995, on the file of the Sub-Registrar, Ponneri and to return the title deeds to the property owners pertaining to the agreement relating to Deposit of Title Deeds.

For Petitioner : Mr. G.Shivasurya

For Respondents : Mr.N.Diwan Kattuva for R-1
Mr.V.Jayaprakash Narayanan,
Spl.G.P. for R-2

ORDER

The petitioner has come forward with this Writ Petition praying for issuance of a Writ of Mandamus to direct the respondents to release the petitioner from the not-borrowed loan by cancelling the agreement relating to Deposit of Title Deeds, dated 03.05.1995, registered as Document No.984 of 1995 on the file of the Sub-Registrar, Ponneri and to return the title deeds to the property owners pertaining to the agreement relating to Deposit of Title Deeds.

2. In the affidavit filed in support of the Writ Petitions, it is stated by the petitioner that the property situated in Nalur Village, Ponneri Taluk, Thiruvallur District, comprised in Survey No.228, measuring an extent of 2450 Sq.Ft. in Plot No.45 of M.K.N.Nagar belonged to Mrs.P.Chinnammal, who purchased the same by sale deed, dated 17.11.1989, registered as Document No.4551 of 1989 on the file of the Sub-Registrar, Ponneri, and since then, she is in uninterrupted possession and enjoyment of the property without any encumbrance. The property situated in Minjur Village, Ponneri Taluk, Thiruvallur District, comprised in Survey No.474/5, measuring an extent of 2400 Sq.Ft. belonged to Mr.P.Rajendran, who purchased the property by sale deed, dated 12.01.1986 registered as Document No.60 of 1986 on the file of the Sub-Registrar, Ponneri and since then, he is in uninterrupted possession and enjoyment of the property without any encumbrance. It is further stated by the petitioner that in 1995, the second respondent offered loan to the backward community people for development of the backward class to develop themselves by doing small scale business, and accordingly, the petitioner applied for loan, namely TABCEDCO Loan to the first respondent through the second respondent and on the petitioner's request, his sister P.Chinnammal and brother P.Rajendran jointly executed Memorandum of Deposit of Title Deeds, dated 03.05.1995, registered as Document No.984/1995 on the file of the Sub-Registrar, Ponneri, to and in favour of the second respondent in respect of the aforesaid property, giving collateral security for due payment and discharge of the said loan with accrued interest. But the first respondent sanctioned loan of Rs.90,000/- by loan sanction order No.TAB/Amtr.3/97-98, dated 19.04.1997 for purchase of machineries for manufacture of ever-silver vessels, after lapse of two years. It is the further case of the petitioner that after obtaining sanction letter, dated 19.04.1997, the petitioner approached both the respondents several times, but no loan was lent to him till 2000, and hence, he sent a representation, dated 03.09.2000 to the second respondent along with other applicants, namely Mrs.P.Chinnammal, Mr.R.Senthil Kumar and Mrs.P.Usha, requesting the respondents to cancel the Memorandum of Deposit of Title Deeds, dated 03.05.1995 registered in favour of the second respondent in respect of the properties given as collateral security, as no loan was given to the petitioner and the aforesaid four persons by the respondents. Subsequently, several representations, dated 14.06.2007, 02.02.2011 and 15.12.2011 were sent to the respondents to cancel the encumbrance of the Memorandum of Deposit of Title Deeds, dated 03.05.1995 registered in favour of the second respondent by the petitioner's sister P.Chinnammal and brother P.Rajendran, by stating their inability that they could not alienate the property, as the encumbrance is still existing in the Encumbrance Certificate. Till date, the respondents have not taken action to cancel the Memorandum of Deposit of Title Deeds, dated 03.05.1995, registered in favour

of the second respondent and did not hand over the title deeds of the property to the petitioner's sister Mrs.P.Chinnammal and brother P.Rajendran and other applicants.

3. It is the further case of the petitioner that the first respondent agreed and accepted that after registration of the Memorandum of Deposit of Title Deeds, dated 03.05.1995, registered in favour of the second respondent, no loan was given to the petitioner, by letter dated 30.08.2012. Even thereafter, no action was taken by the respondents to cancel the Memorandum of Deposit of Title Deeds, dated 03.05.1995 registered in favour of the second respondent to enable the property owners to alienate the property to meet out their emergency needs. The petitioner relies on the order passed by this Court in W.P.No.16730 of 2014, wherein in similar circumstances, the second respondent took immediate steps to cancel the not-borrowed loan of the petitioner therein, after notice was ordered to the respondents in that Writ Petition. Hence, the petitioner has filed this Writ Petition for the above relief.

4. In the counter affidavit filed by the first respondent, it is stated that due to policy changes in the organisation of the second respondent, the loan amounts were not actually disbursed to the petitioner. The petitioner was informed on 06.01.1999 by the first respondent to contact the Branch Manager, TAICO Bank, Ambattur to get back the documents, but neither Mrs.P.Chinnammal and Mr.P.Rajendran, who are the owners of the property given as collateral security for the loan, nor the petitioner approached the first respondent to cancel the mortgage created in favour of the second respondent and for return the documents. The second respondent, by letter dated 11.09.2000, informed the petitioner to send the application for cancellation of the encumbrance on the collateral security, for consideration, through the first respondent, with his recommendation, but the petitioner has not turned up. However, the first respondent, by letter dated 24.02.2016 requested the second respondent to cancel the encumbrance as requested by the petitioner. Due to shifting of office and floods, the documents sought for by the petitioner for return, have been misplaced and they could not be traced and the first respondent is taking steps to trace those documents.

5. From the above facts and circumstances of the case, it is clear that the claim made by the petitioner has been endorsed by the first respondent in the counter affidavit. Therefore, in my considered view, when there is no controversy in the claim made by the petitioner, he shall not be denied the relief sought for in this Writ Petition.

6. Accordingly, the Writ Petition is disposed of, directing the second respondent to release the petitioner from the not-

borrowed loan amount, by cancelling the agreement relating to Deposit of Title Deeds, dated 03.05.1995, registered as Document No.984 of 1995, on the file of the Sub-Registrar, Ponneri and return the title deeds to the property owners pertaining to the agreement relating to the Deposit of Title Deeds. The above exercise, if not yet done, shall be completed by the second respondent within a period of four weeks from the date of receipt of a copy of this order. No costs.
cs

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

Copy to

1. The General Manager,
Tamil Nadu Industrial Co-operative Bank,
Thalamuthu Natarajan Building,
Gandhi Irwin Road, Egmore, Chennai-600 008.
 2. The Managing Director,
Tamil Nadu Backward Classes
Economic Development Corp. Ltd.,
LLA Building, No.735, Anna Salai,
Chennai-600 002.
 3. The Sub Registrar, Ponneri.
- + 1 cc to Mr.G.Shivasurya, Advocate Sr 12242

KR/9/3/16

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W.P.No.35203 of 2015

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