

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNA KUMAR

W.P.No.24448 of 2012

and

M.P.No.1 of 2013

S.Muthu,
rep.by his Power Agent,
J.Sathish ... Petitioner

Vs.

1.The Sub Registrar,
Salavakkam,
Uthiramerur Taluk,
Kancheepuram District.

2.The Joint Registrar of Co-op.Societies,
Tiruvallur Region,
Tiruvallur.

3.The Deputy Registrar of Co-op.Societies,
Kancheepuram Circle,
Kancheepuram,
Kancheepuram District.

4.The Deputy Registrar of Co-op. Societies,
Tiruvallur Circle,
Tiruvallur, Tiruvallur District.

5.The Special Officer, सत्यमेव जयते
Vellavedu - Primary Agrigultural
CO-op. Credit Society,
Vellavedu,
Tiruvallur District.

... Respondents

(R2 to R5 impleaded as per Order of this
Court dated 24.9.2012 in M.P.No.1 of 2012
in W.P.No.24448 of 2012)

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to return back the original Settlement Deed bearing Document No.201201363, dated 28.5.2012 to the petitioner.

For Petitioner : Mr.C.Prakasam
For 1st respondent : Mr.S.Navaneetham,
Additional Government Pleader

For respondents 2 to 5 : Mr.L.P.Shanmugasundaram
Special Government Pleader

O R D E R

This Writ Petition has been filed by the petitioner though his Power Agent for issuance of a Writ of Mandamus directing the first respondent to return back the original settlement deed bearing Document No.201201363 dated 28.5.2012 to the petitioner.

2. The learned counsel for the petitioner submitted that the petitioner, namely, S.Muthu, had been working at Dubai as Civil Engineer. He sent the hard earned money to the petitioner's brother S.Velavan for purchase of some property. Accordingly, the petitioner's brother S.Velavan purchased the property situated in S.Nos.63/1, 3, 4, 5 and 6, Annathur Village, Uthiramerur Taluk, Kancheepuram District and in S.No.169/2B, Thandarai Village, Uthiramerur Taluk, Kancheepuram District in the year 2007 in his name. After the petitioner had returned to India, the petitioner's brother S.Velavan, executed the settlement deed in favour of the petitioner and the same was presented before the first respondent herein and registered in Document No.201201363, dated 28.5.2012. However, the said document was not returned so far inspite of his several requests. Hence, the petitioner seeks for a direction to the first respondent to return the document.

3. On the contrary, Mr.L.P.Shanmugasundaram, learned Special Government Pleader appearing for respondents 2 to 5, submitted that the petitioner's brother, S.Velavan was working as Secretary of the fifth respondent society. In view of some irregularities found in the affairs of the society, an enquiry under section 81 of the Tamil Nadu Co-operative Societies Act, 1993 was conducted and in the enquiry, it was revealed that a major portion of the funds of the fifth respondent society was misappropriated by the said S.Velavan, Secretary and Sekar, clerk of the fifth respondent society. On knowing about the

interim report of the enquiry dated 25.5.2012, the said S.Velan, immediately, transferred the property measuring to an extent of 4.00 acre lands comprised in S.No.63/1, 63/3, 63/4, 63/5 and 63/6 situated at Annathur Village, Uthiramerur Taluk, Kanchipuram District, purchased by him from one N.Guna Sekaran, by way of a registered sale deed dated 28.6.2007. While so, in order to compensate the loss created by S.Velavan to the fifth respondent society, the fourth respondent issued a conditional attachment notice dated 29.5.2012 u/s. 167 of the Tamilnadu Co-operative Societies Act, 1983. Based on the conditional attachment order of the fourth respondent, the first respondent created encumbrance vide Document No.3 of 2012 on 30.5.2012 towards the said property and therefore, did not release the original settlement deed dated 28.5.2012. The learned Special Government Pleader appearing for respondents 2 to 5, has ultimately submitted that they prefer to file a suit seeking to set aside the settlement deed itself executed by S.Velavan and seek time to approach the competent Civil Court.

4. Considering the facts and circumstances of the case and in the interest of justice, this Court is inclined to pass the following orders and accordingly, ordered:-

(i) Liberty is given to the respondents 2 to 5 to file a suit before a competent Court within a period of one month from the date of receipt of a copy of this order.

(ii) Till then, there shall be an order of status quo as on today. If the respondents 2 to 5 do not file any such suit, the first respondent is directed to return the original Settlement Deed dated 28.5.2012 in Document No.201201363, within a period of four weeks thereafter.

(iii) By consent of the parties, the Trial Court concerned is directed to entertain the suit to be filed by the respondents 2 to 5 in the aforesaid subject matter without reckoning the limitation period if the plaint is in order.

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5. With the above direction, the Writ Petition is disposed of. No costs. Connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Copy to:

- 1.The Sub Registrar,
Salavakkam,
Uthiramerur Taluk,
(asvm)
Kancheepuram District.
- 2.The Joint Registrar of Co-op.Societies,
Tiruvallur Region,
Tiruvallur.
- 3.The Deputy Registrar of Co-op.Societies,
Kancheepuram Circle,
Kancheepuram,
Kancheepuram District.
- 4.The Deputy Registrar of Co-op. Societies,
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- 5.The Special Officer, सतयमेव जयते
Vellavedu - Primary Agrigultural
CO-op. Credit Society,
Vellavedu,
Tiruvallur District.

+1cc to Mr.C. Prakasam, Advocate, S.R.No.72488
+1cc to Mr.L.P. Shanmugasundaram, Advocate, S.R.No.72346
+1cc to the Government Pleader, S.R.No.72633

vd(CO)
md(18/01/2017)

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M.P.No.1 of 2013