



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.09.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.17357 of 2016

B.Muthu Pandi

... Petitioner

-vs-

1. The General Manager,
Tamil Nadu Co-operative Housing Board Lit.,
No.48, Ritherden Road, Chennai-7.

2. The Manager
MD(Spl.)33-Periyakulam Co-Operative Housing Board Lit.,
Door No.78/1, South Agraharam,
Periyakulam, Theni District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to return the Original Documents of House Property relating to Loan No.311, on the file of M.D.(Spl) 33, Periyakulam Co-operative Housing Society to the petitioner, based on the petitioner's representation dated 07.08.2016.

For Petitioner	: Mr.P.Muthuvijayapandian
For Respondents	: Mr.S.Chandrasekar
	Govt. Advocate

O R D E R

This writ petition has been filed, seeking to direct the respondents to return the Original Documents of House Property relating to Loan No.311, on the file of M.D.(Spl) 33, Periyakulam Co-operative Housing Society to the petitioner, based on the petitioner's representation dated 07.08.2016.

2.Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents.

3. The case of the petitioner is that he is one of the legal heirs of his deceased father Balu and his father availed a Mortgage Loan from the 2nd respondent to the tune of Rs.1,20,000/- on executing a mortgage deed dated 28.02.1995 bearing Doc.No.269 of 1999 by depositing the original documents relating to the said property to the 2nd respondent; that due to some financial constraint on account of his father's medical ailments, he did not pay the loan amount; that thereafter, with the earnings of the



petitioner and his brother, the loan amount was settled, pursuant to which the 2nd respondent also issued Mortgage Discharge Receipt dated 25.09.2012 vide Doc.No.2491 of 2010; that even after several reminders, the original documents were not returned, due to which, they were not able to sell the property in order to meet out the medical expenses of his father; that on 05.03.2016, the petitioner sent a legal notice followed by a representation dated 07.08.2016, but there was no response and therefore, finding no other alternative or efficacious remedy, the petitioner has approached this Court with the relief stated supra.

4. It is not in dispute that the loan amount borrowed by the petitioner's father has been settled by the petitioner and his brother and once the loan is discharged, then there is no authority for the respondents to keep the documents with them. Even though Mortgage Discharge Receipt was issued as early as on 25.09.2012, the original documents have not yet been returned.

5. Under such circumstances, the concerned respondent, with whom the original documents are pending, is directed to return the original documents of House Property, relating to Loan No.311 on the file of M.D.(spl) 33, Periyakulam Co-operative Housing Society either to the petitioner or his mother within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(CRL)

/True Copy/

Sub Assistant Registrar

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To:

1. The General Manager,
Tamil Nadu Co-operative Housing Board Lit.,
No.48, Ritherden Road, Chennai-7.
2. The Manager
MD(Spl.)33-Periyakulam Co-Operative Housing Board Lit.,
Door No.78/1, South Agraharam,
Periyakulam, Theni District.

+1cc to Mr.P.Muthuvijayapandian Advocate Sr.No. 56204

+1cc to Spl.Government Pleader Sr.No. 56111

JAM/18.11.16/CK/2p-5c