



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.11.2016

CORAM:

THE HONOURABLE DR.JUSTICE S.VIMALA

W.P (MD) No.21776 of 2016

1.K.Bharathi
2.L.Sakthivel

: Petitioners

Vs.

1.The Deputy Registrar, Housing Department,
Opp. RTO Office, K.K.Nagar, Madurai.
2.The Secretary, A-1888 Palani Co-operative House,
Construction Association (va.thu),
Palani, Dindigul District. : Respondents

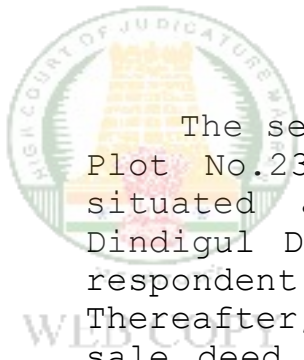
PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to return the original document No.481/2003, dated 27.03.2003 and issue no due certificate to the petitioners on the basis of the petitioners representation dated 02.04.2016 within a stipulated time fixed by this Court.

For Petitioners : Mr.P.Mahendran
For Respondents : Mr.A.Muthukaruppan,
Additional Government Pleader.

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the respondents to return the original document No.481/2003, dated 27.03.2003 and to issue no due certificate to the petitioners on the basis of the first petitioner's representation, dated 02.04.2016.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader, who took notice for the respondents. By consent, the writ petition itself is taken up for final disposal.



The second petitioner is the original owner of the property in Plot No.23, S.F.No.98/9, to an extent of 3868 square feet, situated at 1/888, Chinnaikalyaputhur Village, Palani Taluk, Dindigul District. He pledged the said property with the second respondent for obtaining loan amount of Rs.2,00,000/-. Thereafter, on 22.01.2013, the second petitioner has executed a sale deed in favour of the first petitioner, for a consideration of Rs.7,65,000/-. According to the terms and conditions of the sale deed, the first petitioner has to redeem the mortgage and accordingly, the first petitioner has paid the entire loan amount along with interest of Rs.2,48,000/- to the second respondent and as such, no amount is due towards the discharge of mortgage.

3.1. When the petitioners approached the second respondent and requested to return original document and to issue no objection certificate, the second respondent did not return the document.

3.2. Originally W.P(MD)No.9215 of 2016 was filed seeking a direction to the respondents 1 and 2 therein, to return the original document No.481/2003 to the first petitioner herein. Even though, the respondents promised to return the document, they did not do so. They wanted the petitioners to withdraw the writ petition and accordingly W.P(MD)No.9215 of 2016 was withdrawn and thus it was dismissed as withdrawn. That has driven the petitioner to the second round of litigation.

4.The learned Additional Government Pleader appearing for the respondents would submit that there is an internal problem between the society and the federation and those documents are under the custody of the federation.

5. The internal problem between the society and the federation cannot stand in the way of the right of the first petitioner to get back her document, since the loan is discharged by the first petitioner.

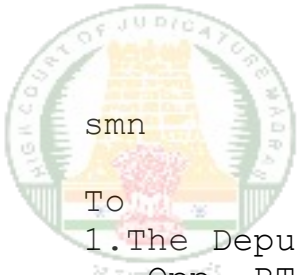
5.1. Under such circumstances, it is made clear that the second respondent shall hand over the document to the first petitioner, for which the second petitioner has expressed his consent. Therefore, the document shall be handed over to the first petitioner, within a period of one week from the date of receipt of a copy of this order, failing which, it will be deemed that the respondents have committed willful violation of the order passed by this Court.

6.With the above observation and direction, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (Crl.Side)

/True Copy/



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To

1.The Deputy Registrar, Housing Department,
Opp. RTO Office, K.K.Nagar, Madurai.

2.The Secretary, A-1888 Palani Co-operative House,
Construction Association (va.thu),
Palani, Dindigul District.

+1CC to Mr.P.Mahendran, Advocate Sr.No.71308

+1CC to Spl.Government Advocate Sr.No.71653

GJM/SKS/RR/SAR-3-26.12.16-2p-5C

ORDER MADE IN
W.P(MD)No.21776 of 2016
22.11.2016