



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.11.2016

CORAM

THE HON'BLE Dr.JUSTICE S.VIMALA

W.P(MD) No.22880 of 2016

P.Selvarani

... Petitioner

-vs-

1.The The President,

A - 1888, Palani Co-op. Housing Society Ltd.,
Shanmugapuram,
Palani, Dindigul District.

2.The Secretary,

A - 1888, Palani Co-op. Housing Society Ltd.,
Shanmugapuram,
Palani, Dindigul District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents to release the original documents of the house situated in Palani Sub Division, Palani Town Survey No.985/2 to the extent of 3295 sq. ft.

For petitioner

... M/s.T.Uma Maheswari

For Respondents

... Mr.J.Gunaseelan Muthaiah

ORDER

This Writ of Mandamus has been filed, seeking a direction to the respondents to release the original documents of the house of the petitioner.

2.Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondents. By consent, the writ petition itself is taken up for final disposal at the stage of admission.

3.The petitioner has obtained a loan for a sum of Rs.7,00,000/- from the respondent society for the construction of a house on 24.07.2002, for which, the petitioner has mortgaged the house situated in Palani Sub Division, Palani Town Survey No.935/2 through a registered deed, on the file of the Sub Registrar, No.I, Palani.

4.The entire loan amount has been repaid and receipt for repayment of entire loan amount has also been issued on 01.10.2012. In the receipt dated 01.10.2012, it has been mentioned by the Secretary/second respondent herein that loan amount of Rs.7,00,000/- along with interest has been already paid/discharged.

5.Thereafter, the petitioner has sent a legal notice to the respondents on 07.04.2014, seeking return of documents. But for the notice sent, there was no reply. Therefore, the petitioner sent a representation dated 07.09.2016 seeking



release of the original documents. On 30.09.2016, no due certificate has been issued stating that there is no amount due from the petitioner Selvarani.

6.The respondents ought to have returned the documents on the first occasion i.e, on 01.10.2012, when the receipt for payment of entire loan amount has been issued; on a second occasion, ie., on 07.04.2014 when legal notice was sent demanding the return of documents and on third occasion, when no due certificate was issued on 30.09.2016. On all the three occasions, the respondents have not chosen to return the documents.

7.Thereafter, the representation dated 07.09.2016 has been sent, for which, also there is no reply. There is no justification for the respondents to keep the documents with them, when the loan amount has been discharged in the year 2012 itself. Therefore, the detention of the documents for a period of four years amount to deprivation of livelihood for the petitioner.

8.Under such circumstances, the respondents are directed to return the original documents to the petitioner forthwith.

9.The writ petition is ordered accordingly. No costs.

10.Post the matter on 01.12.2016 as first item for reporting compliance.

Sd/-

Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1.The The President,
A - 1888, Palani Co-op. Housing Society Ltd.,
Shanmugapuram,
Palani, Dindigul District.

2.The Secretary,
A - 1888, Palani Co-op. Housing Society Ltd.,
Shanmugapuram,
Palani, Dindigul District.

+1cc to M/s.T.Uma Maheswari, Advocate SR.No. 78409

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