

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2017

CORAM

THE HON'BLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.43224 of 2016

R.Raji

.. Petitioner

/versus/

- 1.The Managing Director/Additional Registrar,
Tamil Nadu Co-operative Housing Federation Limited,
Venkatasamy Vaseegam Nilayam,
Door No.48, Ritherdon Road,
Vepery, Chennai 600 007.
- 2.The General Manager,
Tamil Nadu Co-operative Housing Federation Ltd.,
Venkatasamy Vaseegam Nilayam,
Vepery, Chennai 600 007.
- 3.The Gingee Co-operative Housing Society
Limited (C.l.Spl127)
No.4/6, Rajendra Nagar,
Gingee Town and Taluk,
Villupuram District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 and 2 herein to take necessary steps to return the original documents of the petitioner's property related with the loan account number T.V.No.30/2008-2009 and Federation loan Number is 99 L, to the petitioner herein in view of the circular No.339, dated 04.11.2015 of the 1st respondent.

For Petitioner : Mr.V.R.Appaswamee

For Respondents : Mr.S.Kanmani Annamalai,
Standing counsel for R1 and R2
Mr.L.P.Shamugasundaram,
Spl.G.P. for R3

O R D E R

The writ petitioner has filed the present writ petition before this Court seeking a direction to the respondents 1 and 2 herein to take necessary steps to return the original documents of the petitioner's property related to the loan Account Number T.V.No.30/2008-2009 and Federation Loan Number is 99 L to the petitioner herein, in view of the Circular No.339, dated 04.11.2015 of the 1st respondent.

2. The learned counsel appearing for the petitioner submitted that the petitioner has obtained a mortgage loan of Rs.4,00,000/- from the third respondent-Society and executed a deed of mortgage dated 05.03.2008, in Doc.No.535 of 2008 before the Sub Registrar, Gingee in favour of the third respondent-Society and also handed over original documents of his property to the third respondent-Society for security. Based on the G.O.Ms.No.40, Housing and Urban Development Department, dated 16.03.2015, the first respondent issued a circular bearing No.335, dated 29.05.2015, directing the Federation to accept the One Time Settlement(OTS) and to release the respective original documents received by them for security. That Government Order was given effect till 31.08.2015. Thereafter, the first respondent has extended the said period up to 04.11.2015. The petitioner has paid the entire due amount to the third respondent-Society in the scheme of One Time Settlement (OTS) and the third respondent-Society has executed a deed of receipt dated 14.09.2015 cancelling the mortgage debt to the third respondent-Society. The third respondent-Society sent a proposal to the first respondent requesting to return the original documents, since the petitioner has discharged the loan amount on 14.09.2015, pursuant to the above said Government Order. Since the petitioner has closed the loan amount due to third respondent-Society, the petitioner made a representation to the respondents to return the original documents of the property for security. But, there is no response for the said representation. Therefore, the petitioner sent a legal notice to the respondents 2 and 3 on 19.03.2016. The third respondent has sent a reply to the petitioner by informing that the delay in returning the document is occurred only on the part of the first and second respondents and also directed the petitioner to take necessary action against the first and second respondents in accordance with law. Therefore, the petitioner sent a representation to all the respondents requesting them to release his original documents. But, the respondents 1 and 2 have not chosen to return back the original documents furnished by him as security to the loan amount. Therefore, the writ petition has been filed for the aforesaid prayer before this Court.

3. The learned standing counsel appearing for the respondents 1 and 2 would submit that on perusal of the reply notice dated 29.03.2016 sent by the third respondent-Society to the petitioner, it is stated that the third respondent-Society is not able to remit the imbalance amount to the State Federation due to financial crisis. Thereafter, the said position was brought to the notice of the Government. By considering the said fact, the Government has issued G.O.Nos.No.40, Housing and Urban Development Department, dated 16.03.2015 wherein a scheme One Time Settlement(OTS) was introduced for payment of the loan amount to the Society. In the light of the order passed by the Government, the first respondent issued a circular bearing No.335, dated 29.05.2015 directing the Federation to accept the One Time Settlement (OTS) amount and to release the respective original documents received by them for security. Therefore, this Court may consider and pass appropriate orders in the writ petition.

4. The learned Special Government Pleader appearing for the third respondent-Society would submit that the petitioner has discharged his loan amount to the third respondent-Society and the said amount has been credited to the account of the first respondent and the said fact was also placed by the third respondent-Society before the first respondent return the original documents of the petitioner's property. Therefore, there is no delay on the part of the third respondent-Society as contended by the petitioner. But, it is only on the part of the first respondent. Therefore, a direction may be issued to the first respondent to accept the proposal of the third respondent-Society and return the original document to the third respondent-Society, in turn the same will be handed over to the petitioner immediately.

5. Heard both sides.

6. It is admitted that the petitioner had paid the loan dues on 14.09.2015 to the credit of the first respondent. Thereafter, the proposal sent by the third respondent-Society was not accepted by the first respondent and also original documents furnished by them as security for the loan amount have not been returned to the third respondent-Society, in spite of the representation made by the petitioner. The learned counsel appearing for the respondents 1 and 2 submitted that the delay is occurred only due to administrative reason.

7. Earlier on a similar occasion, this Court has passed an order in W.P.No.8355 of 2016, dated 09.03.2016 wherein, para 6 reads as follows:

"6. In the light of the above said statement, this Court, while placing the same on record, issues a direction to the fifth respondent/Society to clear the balance dues fully within a period of four weeks from the date of receipt of a copy of this order. On the balance amount being remitted by the fifth respondent, the Federation shall return all the original documents of the petitioner to the fifth respondent/Society within a period of two weeks there from, and the fifth respondent, in turn is directed to return the original documents to the petitioner within a period of one week from the date, on which, they received the documents from the sixth respondent/Federation."

8. The present case is concerned, the petitioner has paid the loan amount to the credit of the first respondent. Therefore, the first and second respondents have to take necessary steps to return the original title documents of the petitioner to the third respondent-Society. In fact, it is admitted that there is a delay on the part of the respondents 1 and 2 to return the original document only due to administrative reason.

9. Therefore, this Court is inclined to dispose of the writ petition with the following directions:

(1) the first respondent is directed to return the original title deeds of the petitioner's property to the third respondent-Society, within a period of four weeks from the date of receipt of a copy of this order, and the third respondent-Society, in turn, is directed to hand over the original title deed documents to the petitioner within a period of one week, thereafter.

(2) The learned counsel appearing for the respondents 1 and 2 undertakes before this Court that proper instruction will be issued to the first respondent-Federation to return the original documents, as and when the loan amount has been discharged by the third respondent-Society.

10. Accordingly, this writ petition is disposed of. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ari

To

1.The Managing Director/Additional Registrar,
Tamil Nadu Co-operative Housing Federation Limited,
Venkatasamy Vaseegam Nilayam,
Door No.48, Ritherdon Road,
Vepery, Chennai 600 007.

2.The General Manager,
Tamil Nadu Co-operative Housing Federation Ltd.,
Venkatasamy Vaseegam Nilayam,
Vepery, Chennai 600 007.

3.The Gingee Co-operative Housing Society
Limited (C.l.Spl127)
No.4/6, Rajendra Nagar,
Gingee Town and Taluk, Villupuram District.

+1 CC to Government Pleader, High Court, Chennai Sr.No.14850

+1 CC to Mr.S.Kanmani Annamalai, Advocate Sr.No.14424

+1 CC to Mr.L.P.Shamugasundaram, Advocate Sr.No.14503

+1 CC to Mr.V.R.Appaswamee, Advocate Sr.No.14466

WEB COPY

W.P.No.43224 of 2016

SKV(CO)
KP(23/03/2017)