

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2019

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.8613 of 2019

Krishnan

...Petitioner

Versus

The Special Officer,
Dharmapuri Town,
Co-operative Society,
Dharmapuri.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondent to consider the petitioner's representation dated 07.03.2019.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Ms.T.Girija,
Government Advocate

ORDER

With consent, this Writ Petition is taken up for final disposal.

2.1. The learned counsel appearing for petitioner submitted that the lands comprised in S.Nos.52/2, 82/2, 82/3 & 466/1 were ancestral property of the petitioner. There was an oral partition between the petitioner and his brother viz., M.Ramachandran and by virtue of said partition, the said property was allotted to the petitioner's brother.

2.2. The petitioner's brother had borrowed a sum of Rs.50,000/- from the petitioner and on 25.02.1981, he had executed a lease deed with the condition that he will repay the amount on or before 24.02.1999. Till such time, the petitioner can be in possession and enjoyment of the aforesaid property and in case, if his brother fails to repay the borrowed sum, as mentioned above, the petitioner can approach the Court and pay the balance amount and get a sale deed executed in his favour.

2.3. The petitioner's brother did not pay the borrowed sum and therefore, the petitioner's brother had executed the sale deed in favour of the petitioner and also handed over the absolute possession of the above said property to the petitioner. The petitioner's brother died on 05.06.2005. After the death of his brother, the petitioner came to know that without the consent and knowledge of him, his brother had mortgaged the aforesaid property and obtained a loan for a sum of Rs.15,000/- from the respondent/Society. Therefore, he paid a sum of Rs.7,000/- towards the loan borrowed by his brother. At that time, the respondent/Society assured him to close the loan but after that they informed him that they will take the possession of the aforesaid property by way of auction and transfer the revenue records in their name. Hence, he filed a suit for declaration of title and injunction before the District Munsif Court, Dharmapuri in O.S.No.53 of 2013 and the Court directed him to implead the legal heirs of his brother. He also impleaded the legal heirs of his deceased brother and they also appeared before the trial Court and given their no objection for enjoying the possession of the property by the petitioner. The trial Court dismissed the said suit against which he has preferred an Appeal and the same is pending.

2.4. The learned counsel for petitioner further submitted that on 07.03.2019, the petitioner has made a representation for transfer of the property in his name before the respondent but the same was kept pending by the respondent society. Aggrieved by this, the petitioner has come before this Court.

3. The learned Government Advocate appearing for respondent submitted that the petitioner's representation will be considered by the respondent.

4. Heard the counsels on both sides.

5. Without going into the merits of the case and the submissions made by the counsels on both sides, this Court pass the following directions:

(i) The respondent is directed to consider the petitioner's representation and after issuing notice to the parties concerned shall pass appropriate orders on merits and in accordance with law as expeditiously as possible within a period of twelve weeks from the date of receipt of a copy of this order.

(ii) The petitioner is also directed to furnish the copy of the payment receipts along with the representation to the respondent if any.

6. This Writ Petition is disposed of with the above directions. However, there shall be no order as to costs.
mrr

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

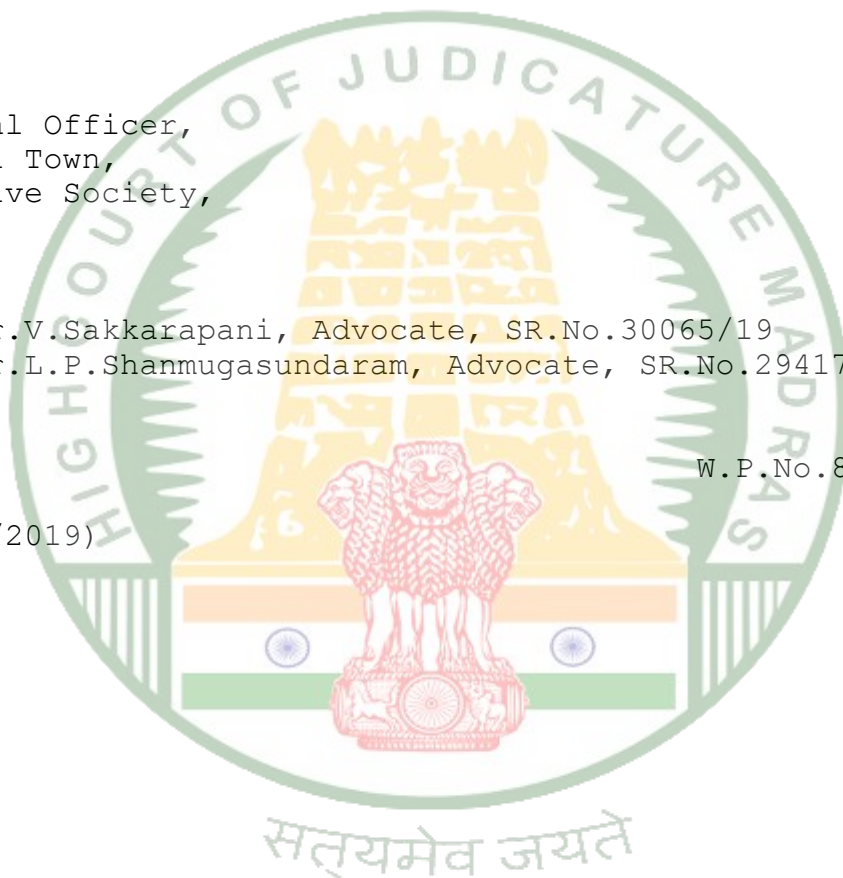
To

The Special Officer,
Dharmapuri Town,
Co-operative Society,
Dharmapuri.

+1cc to Mr.V.Sakkarapani, Advocate, SR.No.30065/19
+1cc to Mr.L.P.Shanmugasundaram, Advocate, SR.No.29417/19

W.P.No.8613 of 2019

Kak(20/05/2019)



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