



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2020

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P.(MD).No.18997 of 2015

I.Thomas

.. Petitioner

Vs.

1.The District Registrar,
of Co-operative Societies (Housing)
Trichy.

2.The Deputy Registrar (Housing),
Deputy Registrar Housing Board Office,
Near Samathu School,
Kaja Nagar, Trichy.

3.The Secretary,
T.V.S.Nagar Co-operative
Building Society Ltd., (R.1357),
No.Vairam Complex,
T.V.S.Nagar,
Kajamalai,
Trichy - 23.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the 3rd respondent to return the petitioner's land deed which was mortgaged with the 3rd respondent, dated 26.08.2002 within time as fixed by this Court.

For Petitioner : No Appearance

For Respondents : Mr.C.Ramar for R1 and R2

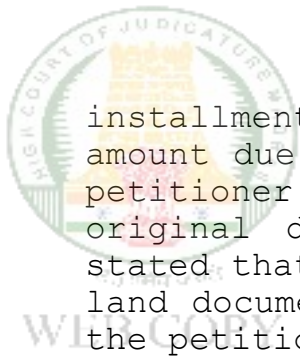
Additional Government Pleader

Mr.K.C.Ramalingam for R3

ORDER

This writ petition is filed for issuing a Writ of Mandamus to direct the third respondent to return the petitioner's land documents which was mortgaged to the third respondent on 26.08.2002.

2.The petitioner availed a loan from the third respondent to construct a house. The petitioner admits that he created a mortgage by a document, dated 26.08.2002 registered before the Registrar's Office. The amount borrowed by the petitioner is stated to be Rs.2 lakhs and that the interest payable is 11% per annum. It is the case of the petitioner that he paid the monthly



installments regularly and that by 22.10.2013 he paid the entire amount due as per the statements of third respondent. However, the petitioner when approached the third respondent to return the original documents after discharging the mortgage amount, it is stated that the third respondent is simply dragging on to return the land documents to the petitioner. It is in the said circumstances, the petitioner has approached this Court for the relief.

3.The counsel for the petitioner is not present. The learned counsel for the third respondent, however, seeks time to get instructions.

4.The loan transactions pleaded by the petitioner is not disputed by the respondent by filing counter. In the matter like this, the third respondent cannot unnecessarily drag the issue so as to prejudice the rights of land owners. When it is stated that the petitioner has discharged the entire loan way back in the year 2013 and submitted representations before coming to Court, it is expected that the respondent should have given a reply atleast if they are not liable to return the document or that the mortgage loan was not discharged as it was agreed. The petitioner has produced before this Court the receipts by finally paying the amount on 22.10.2013. The pass book of the petitioner also is produced along with the mortgage deed.

5.Having regard to the specific averments stated in the affidavit filed in support of the petition and documents, this Court has no reason to discredit or disbelieve the statements of petitioner as born out from records. Hence, this Court is of the view that the third respondent has to return the title deeds and other documents filed or submitted by the petitioner at the time of entering into mortgage transactions.

6.Hence, the writ petition is allowed and the third respondent is directed to return all the original documents of title deed and or any other document that was deposited by the petitioner at the time of entering into the mortgage deed on 26.08.2002, within a period of four weeks from the date of receipt of a copy of this order, if the documents have not been handed over so far. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2020

Sub Assistant Registrar(CS)

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TO

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Trichy - 23.

+1 CC to M/s.K.C.RAMALINGAM, Advocate (SR-5282[F]

W.P. (MD) .No.18997 of 2015

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SMA/14/02/2020/3P/5C