



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11027 of 2021

1.S.Palpandi

2.P.Gunchari

... Petitioners

Vs.

1. The Secretary,
MDA/HSG 124,
Madurai District Cooperative Workers
and Public Service Cooperative Housing Society,
Kalavasal,
Madurai-625 016.

2.The Registrar,
Regsitrar of Cooperative Societies,
No.170, NV Natarajan Maaligai,
Periyar EVR High Road,
Poonamallee High Road,
Kilpauk,
Chennai- 600 010.

3.The Managing Director,
Tamil Nadu Cooperative Housing Federation,
48, Ritherdon Road,
Veperry, Chennai-600007.

... Respondents

***R3 is suo motu impleaded vide order dated 05.07.2021 in WP(MD). 11027/2021.**

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respodents 1 & 2 to return the petitioners' original sale deed dated 30.08.2000 and registered as document No.6959/2000.

For Petitioners	: Mr.R.Narayanan
For Respondents	: Mr.R.Suresh Kumar Government Advocate



ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to return back the original sale deed dated 30.08.2000 to the petitioners.

2. The case of the petitioners is that the first petitioner is the member in the first respondent Society and the petitioners borrowed a loan of Rs.2,50,000/- (Rupee Two lakhs and fifty thousand only) from the first respondent. A registered mortgage deed was also executed on 05.10.2004 and the property was given as a security. The original sale deed dated 30.08.2000 was also handed over to the first respondent.

3. It is stated that the entire amount has been repaid with interest and a registered receipt was also executed and registered in Doc.No.2691/2009 and thereby the mortgage was redeemed on discharge of the loan amount.

4. The grievance of the petitioners is that the original sale deed that was given as a security has not been returned back for the last eleven years and therefore the petitioners have approached this Court seeking for appropriate directions.

5. Heard Mr.R.Narayanan, learned counsel for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate for the respondents.

6. The learned Government Advocate appearing on behalf of the respondents submitted that the Secretary of the Co-operative Society was involved in misappropriation of funds and an enquiry was also ordered under Section 81 of the Co-operative Societies Act. The learned Government Advocate further submitted that the Secretary fearing consequences had committed suicide and therefore the respondents are not able to make any substantial progress in the enquiry. It was further submitted that the enquiry must be completed and a report must be filed and thereafter a decision will be taken with regard to handing over the document to the petitioners.

7. In the considered view of this Court, the petitioners have discharged the entire loan amount and the same is evident from the registered discharge receipt issued on 15.04.2009. This receipt has been registered as Doc.No.2691/2009. This receipt is a *prima facie* proof for the redemption of the mortgage and the discharge of the loan.

8. The misappropriation on the part of the Secretary of the Society cannot be put against the petitioners. The petitioners have been running from pillar to post for the last eleven years for



getting back the original documents. Ultimately they have knocked the doors of this Court. Therefore the handing over of the original document of the petitioner cannot be postponed and kept pending endlessly awaiting for a report to be filed by the enquiry office under Section 81 of the Act.

WEB COPY

9. In view of the above discussion, there shall be a direction to the third respondent to hand over the original sale deed dated 30.08.2000 to the first respondent within a period of two(2) weeks from the date of receipt of a copy of this order. The first respondent immediately on receipt of the same, shall hand over the original document to the first petitioner within a period of two (2) weeks thereafter.

10. This writ petition is disposed of with the above directions. No Costs.

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

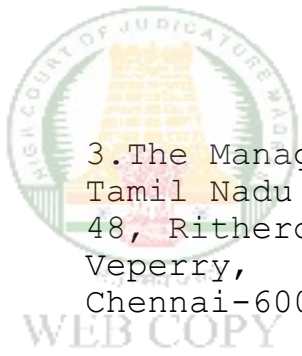
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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
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Madurai District Cooperative Workers
and Public Service Cooperative Housing Society,
Kalavasal,
Madurai-625 016.

2.The Registrar,
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3.The Managing Director,
Tamil Nadu Cooperative Housing Federation,
48, Ritherdon Road,
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Chennai-600007.

+1 CC to M/s.N.JULIET LATHA, Advocate (SR-22433[F] dated 14/07/2021)

+1 CC to M/s.SPL GP (SR-22541[F] dated 14/07/2021)

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LR (26.07.2021) 4P 6C