



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD)No.20056 of 2014
(Through Video Conference)

P.Saroja

... Petitioner

Vs.

1.The Regional Deputy Registrar (Housing),
O/o Regional Deputy Registrar (Housing),
No.16/1. Samathu School Street,
Khaja Nagar, Mannarpuram,
Trichy 20

2. The President,
TVS Nagar Co-operative House
Building Society Limited,
No.1, TVS Nagar,
Trichy 21

3. The Secretary,
TVS Nagar, Co-operative House Building Society Limited,
No.1, TVS Nagar,
Trichy 21

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the 1st respondent to return the original registered sale deed dated 23.08.1999 in document No. 1041/1999 on the file of the Sub Registrar Office Manachanallur Trichy District and the original building permit of the Petitioner s house which were produced by the petitioner while availing loan by executing registered mortgage deed dated 06.05.2002 in document NO. 930/2002 on the file of the Sub Registrar Office, Manachanallur by considering the petitioner's representation dated 14.07.2014 within the time that may be stipulated by this Court.

For Petitioner	: Mr.T.Senthilkumar
For Respondents	: Mr.P.Mahendran, Additional Government Pleader

O R D E R

This Writ Petition has been filed for the issue of Writ of Mandamus directing the first respondent to consider the representation made by the petitioner on 14.07.2014, wherein the petitioner has sought for the return of all the original documents that were given as security, when the petitioner availed of loan facilities in the third respondent Society.



2. The case of the petitioner is that she was a member of the third respondent Society and she availed loan facilities in the year 2002. The petitioner created a Security for the loan by handing over the original title deeds. According to the petitioner, the entire loan was paid to the third respondent on 08.04.2011. The same is substantiated by a registered Loan Discharge Receipt dated 25.04.2011.

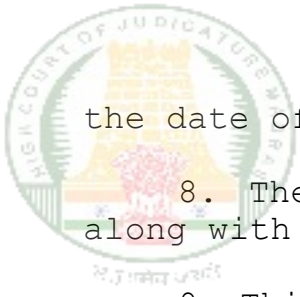
3. The grievance of the petitioner is that her original documents were not handed over inspite of the entire loan amount being settled. Therefore, the petitioner made repeated representations to the respondents seeking for the return of the documents. Since the same did not evoke any response, the present writ petition has been filed before this Court.

4. When the matter was taken up for hearing, the learned Additional Government Pleader, based on the written instructions received from the third respondent, submitted that a registered Loan Discharge Receipt has been given in favour of the petitioner on 25.04.2011. But the amount that is said to have been paid by the petitioner never reflected in the Books of Accounts of the Society. Based on the complaint given by the petitioner, an enquiry was conducted against the concerned officials under Section 81 of the Cooperative Societies Act and a report was filed to the effect that there was misappropriation and financial irregularity. Accordingly, a complaint was also lodged before the concerned police and the same is pending before the Court after the filing of the final report. It was therefore submitted that only after completion of the case and only after the amount gets credited in the account of the Society, the original documents will be returned to the petitioner.

5. Heard Mr.T.Senthilkumar, learned counsel for the petitioner and Mr.P.Mahendran, learned Additional Government Pleader for the respondents.

6. In the considered view of this Court, the respondents have taken a very unreasonable stand in this writ petition. There is no dispute with regard to the fact that the petitioner had paid the entire loan amount and the Loan Discharge Receipt has also been issued to her. If this amount has been misappropriated by the Secretary, that does not mean that till it is recovered, the original documents will be retained by the respondents. It is for the respondents to independently initiate proceedings to recover the amount from the Secretary and that process cannot stand in the way of the petitioner getting back her original documents after the entire loan amount has been discharged.

7. In view of the above, there shall be a direction to the respondents to hand over all the original documents given as security by the petitioner, within a period of four (04) weeks from



the date of receipt of a copy of this order.

8. The petitioner is directed to make a fresh representation along with a copy of this order.

9. This Writ Petition is Allowed accordingly. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Regional Deputy Registrar (Housing),
O/o Regional Deputy Registrar (Housing),
No.16/1. Samathu School Street,
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Trichy 20
2. The President,
TVS Nagar Co-operative House
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No.1, TNS Nagar, Trichy 21
3. The Secretary,
TVS Nagar, Co-operative House Building Society Limited,
No.1, TVS Nagar, Trichy 21

+1 CC to M/s.SPL GP (SR-18086[F] dated 29/04/2021)

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28.04.2021

KB(16.06.2021) 3P 5C