



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.03.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.5706 of 2022

D.Kumar Rajesekaran

..Petitioner

Vs.

1. The Registrar of Cooperative Societies (Housing),
Ritherdon Road, Vepery,
Chennai 600 007.

2. The Deputy Registrar (Housing)
Chennai Region Cooperative Societies,
No.17, Ramanatha Street,
Theyagaraja Nagar,
Chennai 600 017.

3. The President,
The Barathi Co-operative Building Society Limited
No.87, Perambur High Road,
Chennai 600 011.

..Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus directing the 2nd respondent to cause necessary action for registration of the receipt in favour of the petitioner by the 3rd respondent within a time frame fixed by this Court.

For Petitioner : Mr.D.Daniel
For Respondents : Mr.U.Baranidharan
(Additional Government Pleader)

O R D E R

This Writ Petition is filed seeking a direction to the 2nd respondent to cause necessary action for registration of the receipt in favour of the petitioner by the 3rd respondent within a time frame fixed by this Court.

2.According to the petitioner, he is the owner of property in Plot No.59, comprised in S.No.20/1, situated in Kolathur Village, measuring 2430 Sq.Ft. He borrowed money from the Maharashtra Cooperative Building Society Limited, the predecessor in the interest of the 3rd respondent during March 1977 and



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executed a mortgage deed in favour of the said Society. He also deposited title deed of his property with said Society. According to the petitioner, he has repaid entire loan amount and the Society cancelled the mortgage deed on 10.02.1993 and handed over the same to the petitioner along with all the original documents of title deposited by the petitioner. Subsequently, the said Society was taken over by the 3rd respondent. The petitioner sold an extent of 1202 Sq.Ft. to one H.Adhikesavan by the sale deed dated 07.03.2003, registered as Document No.561/2003 on the file of the Sub Registrar Office, Sembium. At the time of sale, the encumbrance certificate obtained did not reflect the mortgage in favour of the Society. When the petitioner wanted to settle the remaining portion of the said property in favour of his son and when he presented the settlement deed for registration, the Sub Registrar informed the petitioner that receipt for cancellation of mortgage was not registered by the Society and unless the receipt is registered, the settlement deed cannot be registered. In the manual encumbrance certificate obtained by the petitioner, the mortgage deed in favour of the Society has been correctly mentioned, while in computer encumbrance certificate, it has been mentioned as 'sale'. The petitioner approached the 3rd respondent with the draft receipt to be registered by the 3rd respondent Society. One Jayapal, claiming to be the Director of the said Society demanded Rs.30,000/- for executing the receipt in favour of the petitioner by the President viz., G.Mugunthan. When the petitioner verified the expenses for registration of receipt through his Advocate, he found that expenses for registration of receipt is very much less and said Jayapal is demanding exorbitant amount, which is also an unofficial amount. According to the petitioner, he approached the 1st respondent through his Advocate. On his direction, his Advocate contacted the 2nd respondent, but no action is taken for registration of receipt cancelling the mortgage deed. Hence, the petitioner has come out with the present Writ Petition.

3.The learned counsel appearing for the petitioner referred to cancelled mortgage deed and encumbrance certificate filed in the typed set of papers and submitted that the respondents are bound to register the receipt cancelling the mortgage deed as entire amount borrowed by the petitioner was repaid as early as in the year 1983 itself and the Society has cancelled the mortgage deed along with original document of titles and prayed for allowing the Writ Petition.

4.Mr.U.Baranidharan, learned Additional Government Pleader appearing for respondents, on instructions, submitted that the 3rd respondent, by letter dated 11.03.2022, informed the Government Pleader Office that he is ready for cancellation of mortgage deed. The learned Additional Government Pleader, on



instructions, further submitted that the President will register the receipt with the concerned Sub Registrar Office within a period of two weeks from the date of receipt of a copy of this order.

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5. Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the respondents and perused the entire materials available on record.

6. From the materials on record, it is seen that it is the contention of the learned counsel appearing for the petitioner that entire mortgage loan was discharged by the petitioner and no amount is due and payable to the Society and Society is bound to register the receipt for discharge of mortgage. To substantiate this contention, the petitioner has produced mortgage deed which was cancelled by the Maharashtra Cooperative Building Society Limited on 10.02.1983. The cancelled mortgage deed has the seal of the Maharashtra Cooperative Building Society Limited. The cancelled mortgage deed in possession of petitioner, is not disputed by the respondents. When the mortgage loan is completely discharged, the Society is bound to register the receipt recording the cancellation of mortgage deed, this is more so, when the Society has returned the original mortgage deed duly cancelled with their official seal to the petitioner. In view of the above and contention of the learned Additional Government Pleader appearing for the 3rd respondent that 3rd respondent will register the receipt recording cancellation of mortgage deed within a period of two weeks from the date of receipt of a copy of this order, the 3rd respondent is directed to register the receipt recording cancellation of mortgage deed within a period of two weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(Digit)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The Registrar of Cooperative Societies (Housing),
Ritherdon Road, Vepery,
Chennai 600 007.



2. The Deputy Registrar (Housing)
Chennai Region Cooperative Societies,
No.17, Ramanatha Street,
Theyagaraja Nagar,
Chennai 600 017.

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3. The President,
The Barathi Co-operative Building Society Limited
No.87, Perambur High Road,
Chennai 600 011.

+2cc's to Mr.D.Daniel, Advocate, Sr.No.16970(21/03/2022)

+1cc to Government Pleader, Sr.No.17025(21/03/2022)

W.P.No.5706 of 2022

PA(CO)
KKV/11/03/2022