



WEB COPY



W.P. No. 28082 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No. 28082 of 2022

J. Velu

... Petitioner

Versus

1. The Inspector General of Registration
No.100. Santhome High Road
Mylapore
Chennai- 600 028.
2. The District Registrar
South Chennai
AC 1 to 48, Todd Hunter Nagar
Fanepet, Nandanam
Chennai-600 015.
3. The Sub Registrar,
Office of Virugambakkam Sub Registrar
No.45A, Arcot Road
Virugambakkam
Chennai-600 092.
4. L.Harish Kumar
5. H.Kamlesh
6. H.Chunaunthi
7. H.Rajesh Choudhary
8. H. Jaswanth Choudhary

... Respondents



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praying for issuance of a Writ of Mandamus, directing the third respondent to allow the respondents 5 to 8 herein to execute the cancellation of the Mortgage Deed for the mortgage Deed, dated 07.09.2020 executed by the petitioner in favour of the fourth respondent vide Doc.No.3366 of 2020 registered before the SRO, Virugambakkam.

For Petitioner : Mr.N.Kumar Rajan
For RR 1 to 3 : Mr.C.Kathiravan
Special Government Pleader

ORDER

This writ petition has been filed seeking for issuance of Writ of Mandamus, directing the third respondent to allow the respondents 5 to 8 herein to execute the cancellation of the Mortgage Deed, dated 07.09.2020 executed by the petitioner in favour of the fourth respondent vide Doc.No.3366 of 2020 on the file of Sub Registrar Office, Virugambakkam.

2. According to the petitioner, he has availed loan for a sum of Rs.2,00,000/- from the fourth respondent and had executed the Mortgage Deed dated 07.09.2020 vide Document No.3366 of 2020 in his favour registered on the file of Sub Registrar Office, Virugambakkam. He has repaid the entire mortgage amount to the respondents 5 to 8 in June, 2022, which



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was received by them. When the petitioner was asked the 4th respondent to execute the cancellation of mortgage deed, he has not come forward to execute the cancellation of mortgage deed as he is not in a position to do any activities. Thereafter, the legal heirs of the 4th respondent, respondents 5 to 8 herein, have agreed to execute the cancellation of Mortgage Deed on behalf of the 4th respondent. In this regard, the petitioner had approached the third respondent about the cancellation, he was informed that they would not have power to cancel the mortgage deed. Hence this petition.

3. The learned counsel appearing for the petitioner submitted that without going into the merits of the case, it would suffice, if this Court issues a direction to the 3rd respondent and to pass appropriate orders within a reasonable time frame.

4. Since no adverse order is being passed against the respondents 4 to 8, notice to the respondents 4 to 8 is dispensed with.

5. Heard both side and perused the records.

6. On a perusal of the records, it is seen that the petitioner has



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borrowed loan amount of Rs.2,00,000/- from the fourth respondent and he has executed a registered mortgage deed dated 07.09.2020 vide in Doc.No.3366 of 2020 in his favour before the Sub Registrar Office, Virugambakkam. When the petitioner was asked the 4th respondent to cancel the mortgage deed, he has not come forward to execute the cancellation of mortgage deed as he is not in a position to do any activities. The respondents 5 to 8 are the legal heirs of the fourth respondent. It is the plea of the petitioner, even after collecting the mortgage amount, the private respondents have not come forward to execute the cancellation Deed of Mortgage, dated 07.09.2020.

7. The claim made by the petitioner in this writ petition would involve question of facts and therefore, the same cannot be decided under writ jurisdiction. In such view of the matter, this Court is not inclined to issue any affirmative direction to the petitioner and the course open to the petitioner is to approach the civil Court for getting appropriate relief in the manner known to law.

8. With the above observations, the writ petition is disposed of. No



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costs.

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Index : Yes / No
Speaking order : Yes / No
msm

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M.DHANDAPANI, J.

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