



W.P(MD)No.17901 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17901 of 2022

and

W.M.P.(MD)Nos.13054 & 13056 of 2022

1.J.Baby

2.P.Bharathi

3.H.Janarthanan

... Petitioners

Vs.

1.The Inspector General of Registration,
100, Santhome High Road, Mullima Nagar,
Mandavelipakka, Raja Annamalaipuram,
Chennai, Tamil Nadu-613 602.

2.The Sub-Registrar,
Sub-Registrar Office, Budalur,
Police Station Road, Budalur,
Thanjavur District,
Tamil Nadu-613 602.

3.Baghayalakshmi

4.Kalaiselvi

5.Prakash

6.Gopal



W.P(MD)No.17901 of 2022

7.Gopalsamy

8.Kathiravel

9.Karupusamy

10.Suhadevi

11.Senthilkumar

12.Babu

13.Vishwanathan

14.Tamilselvi

15.Maheswari

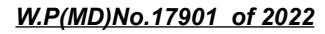
16.Kanakaraj

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents 1 & 2 to consider the representation dated 26.07.2022 sent by the petitioners to the respondents 1 & 2 and pass orders to note to register any document in Survey Nos.266/11, 266/18, 266/20, 266/21, 266/22A, 266/23, 266/4, 266/10, 314/1, 266/15A, 266/15B, 266/15C, 266/16, 300/7, 314/3, 314/4, 314/7, 315/1, 301/1, 266/13, 266/14, 266/22B, 266/9, 300/3, 300/8, 313/1A, 313/1B, 313/1C till the completion of the criminal case in FIR No.653 of 2022, dated 13.02.2022 on the file of the Peelamedu Police Station, Coimbatore.

For Petitioners : Mr.Naveen Kumarmoorthy

For R1 & R2 : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.K.S.Selvaganesan
Additional Government Pleader



Heard the learned counsel appearing for the petitioners and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents 1 & 2.

2. Considering the nature of relief to be granted, issuance of notice to the private respondents is dispensed with.

3. The writ petitioners are residents of Coimbatore. They are having the petition mentioned properties at Tanjore. The writ petitioners had availed loan from three persons namely Sivasamy, Karunakaran and Sundersamy. Based on the terms of the transaction, the writ petitioners 1 & 2 executed settlement deed in favour of their brother Sathishkumar. The said Sathishkumar executed settlement deed in favour of his wife Aarthi. The said Aarthi executed settlement deed dated 24.08.2017 in favour of the private respondents herein. According to the writ petitioners, the understanding was that after the loan amount is repaid, the transaction will be nullified and that deed of re-conveyance will be executed in their favour. The petitioners allege that the creditors had been charging exorbitant interest and that they were not able to



W.P(MD)No.17901 of 2022

service the loan transaction. The petitioners admit that they have received a sum of rupees three crores as loan amount and assert that they had so far repaid a sum of rupees one crore and sixty lakhs. They claim to have paid exorbitant interest also. They are ready to make further payment of rupees one crore and forty lakhs. When the third petitioner met the creditors in this regard, he is said to have been attacked. That led to registration of Crime No.653 of 2022 on the file of the Peelamedu Police Station, Coimbatore City. The apprehension of the petitioner is that till the criminal investigation is concluded, the respondents 1 & 2 should not entertain any document pertaining to the petition mentioned survey numbers.

4. The Hon'ble Supreme Court in the decision reported in ***AIR 1952 SC 12 (State of Orissa Vs. Madangopal Rungta)*** has held that the final relief under Article 226 of the Constitution of India cannot be in the nature of interim relief.

5. The case on hand would squarely attract the aforesaid proposition. Therefore, I am not inclined to grant the relief sought for in this writ petition. At the same time, I do not want to send back the writ petitioners empty handed. Their specific case is that they are the victims at the hands of shylocks. To provide relief to such victims, Tamil Nadu Act 38 of 2003 has been enacted. Section 5 & 6 of the said Act are as follows:-



W.P(MD)No.17901 of 2022

“5. (1) A debtor may deposit the money due in respect of loan received by him from any person together with interest at the rate fixed by the Government under Section 7 of the Money-Lenders Act, into the Court, having jurisdiction, along with a petition to record that the amount deposited is in full or part, satisfaction of the loan including the interest therefor, as the case may be.

(2) The Court shall, on receipt of a petition under sub-Section (1) refer a copy of the petition to the person mentioned in the petition, directing him to give his version of the case within a period of fifteen days as may be granted by the Court. The Court may, after due enquiry and after considering the versions of the parties, pass orders recording the satisfaction of the loan and interest therefor in full or in part, as the case may be.

6. The Court may, on filing a petition by the debtor, order the restoration of possession of property whether movable or immovable, if any, forcibly taken by any person towards repayment of the loan advanced or interest therefor.”

A purposive reading of the aforesaid provisions lead me to the conclusion that the relief now sought for can be sought by way of interim relief by the Court concerned. The petitioners are therefore granted liberty to move the jurisdictional Court. As and when such a petition under Section 5 of the Act is filed, the same shall be numbered without any delay. The petitioner is also permitted to file an IA or MP seeking the relief now sought for in the writ petition. The said IA shall also be numbered and disposed of on merits and in accordance with law as expeditiously as possible.



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W.P(MD)No.17901 of 2022

G.R.SWAMINATHAN, J.

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6. The Writ Petition is disposed of with the aforesaid direction and liberty. No costs. Consequently, connected miscellaneous petitions are closed.

10.08.2022

Index : Yes / No

Internet : Yes/ No

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NOTE:Issue Order Copy on 11.08.2022

To

1.The Inspector General of Registration,
100, Santhome High Road, Mullima Nagar,
Mandavelipakka, Raja Annamalaipuram,
Chennai, Tamil Nadu-613 602.

2.The Sub-Registrar,
Sub-Registrar Office, Budalur,
Police Station Road, Budalur,
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