



IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07.06.2023

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THE HON'BLE **MR.JUSTICE M.DHANDAPANI**

W.P.No.5195 of 2020

Ponnusamy

... petitioner

-Vs-

1. The Collector,
Tiruppur District,
Tiruppur.

2. The Joint Registrar of
Cooperative Societies,
Tiruppur.

3. K2082 Nerupperichal primary
Agricultural cooperative bank,
Nerupperichal, Poovalupatti Post,
Tiruppur 641 607.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, for issuance of Writs of Mandamus directing the respondents to consider and pass orders on the representation of the petitioner dated 09.01.2020 by reconveying the land in S.No. 606/1 and 597/2 in Nerupperichal Village Tiruppur District to the petitioner.



For petitioner : Mr. V.Elangovan

For Respondent : Mr.P.Sathish, AGP RR1 & 2

ORDER

The writ petition has been filed seeking a direction to the respondents to consider and pass orders on the representation of the petitioner dated 09.01.2020 by reconveying the land in S.No. 606/1 and 597/2 in Nerupperichal Village Tiruppur District to the petitioner.

2. It is the case of the petitioner that his father Muthusamy Gounder pledged the property in S.No.606/1 and 507/2 in Nerupperichal Village, Tiruppur District in Vanipalayam Co-operative Society and got agricultural loan for a sum of Rs.3000/- by mortgaging the above said property and was not able to repay the loan amount to the third respondent. The said society brought the property for auction. Since there was no offer from the public, the above property was purchased by the 3rd respondent for a sum of Rs.3845/- However, till date, the petitioner is in the possession of the property and doing agriculture in the said land. The petitioner's father made several request to the society that he is ready to settle the loan amount with interest. Subsequently, in the year 2015, the petitioner's father died. Therefore, the petitioner made a representation on



02.01.2020 to the second respondent to re-convey the land on receiving the loan amount with as on date. However, till date, no action is taken and after receiving the petitioner's representation, the Society gave a complaint to the Inspector of Police, Poondi Police Station to evict the petitioner from the said land and hand over the possession to the petitioner. Without having no other option, the present writ petition has been filed.

3. The learned counsel for the petitioner submitted that this Court may issued a direction to the second respondent to consider the petitioners representation and pass appropriate orders within the stipulated time as fixed by this Court.

4. The second respondent has filed a counter affidavit and the relevant paragraphs are extracted hereunder:

"5. It is submitted that the petitioner has filed the above writ petition with a prayer to issue a Writ of mandamus or order or direction in the nature of a writ directing the respondents to consider and pass orders on the representation of the petitioner dated 09.01.2020 by reconverting the land in S.No. 606/1 and 597/2 in Nerupperichal village, Tiruppur District to the petitioner. It is submitted that the father of the petitioner one Mr.



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MuthusamyGounder pledged his property In Nerupperichal village, Teruppur District with the 3rd respondent society and got agricultural loan of a sum of Rs. 3,000/- in the year 1962. Till the year 1969. the father of the petitioner didn't repay the loan amount to the 3rd respondent society, despite many requests. Subsequently, the 3rd respondent society filed an execution petition before the Deputy Registrar of Cooperative societies to execute the pledge made by the petitioner's father. In pursuance of the proceedings taken in the execution petition, the said properties of the petitioner's father were come into the public auction held on 31.05.1967. The 3rd respondent society through sale got the property in auction on 21.04.1969.

6. It is submitted that these respondent deny the condition of the petitioner made in paragraph No. 2 that till date the petitioner is in possession of the said property. it is the utter false statement. It is clear that as per the Patta No. 1930, the land comprised in survey No, 235/2A & 235/5B2 admeasuring 0.54 acres which arc classified as the dry land are in possession of the 3rd respondent society. Also, it is clear that as per the Patta No. 170, the land comprising in survey No. 606/1 admeasuring 3.04 acres are in possession of the 3rd respondent society.

7. It is submitted that this respondent denies the contention of the petitioner made in paragraph No. 3 that the petitioner's father have made several request to settle the loan amount with interest and put the petitioner to strict proof of the same. If the petitioner's Father would have made several request to the 3rd respondent society, that would be proved by producing any documentary evidence such as



letter. Nothing has been produced by the petitioner before this Hon'ble Court and the petitioner built up a story and had stated the above said averments only in his affidavit without any proof.

8. It is submitted that the claim a the petition is barred by law of limitation. The petitioner's father has failed to repay the loan with the 3rd respondent society, failing which the 3rd respondent has attached the property and the revenue records also mutated in the name of the 3rd respondent society."

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts of the present case are not in dispute. Admittedly, the petitioners father obtained a loan from the third respondent Society in the year 1962. For non-payment of the loan amount, the mortgaged property was brought for auction and the same was purchased by the third respondent for a sum of Rs.3,845/- in the year 1969. However, after lapse of four decades, the petitioner has come forward to repay the loan amount with interest and also filed the present writ petition, which is not sustainable one. Hence, the prayer sought for by the petitioner cannot be granted and the writ petition is liable to be set aside.



M.DHANDAPANI, J.

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7. With the above observation, this writ petition is dismissed. No costs.

07.06.2023

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To

1. The Collector,
Tiruppur District,
Tiruppur.

2. The Joint Registrar of
Cooperative Societies,
Tiruppur.

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