



W.P.No.8694 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 08.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.8694 of 2023

1.N.Mounagurusamy

2.M.Vidya

... Petitioners

VS.

1.The Joint Registrar of the Co-operative Societies,
4th Floor, Collectorate,
Tiruppur.

2.The Assistant Registrar of the Co-operative Societies,
Office of the Co-operative Societies,
Dharapuram Region,
Dharapuram,
Tiruppur District.

3.The Sub Registrar Cum
Auditing officer of the Co-operative Societies,
Gudimangalam,
Udumalpet Taluk,
Tiruppur District.

4.The Secretary,
K. 797, Kongalnagaram Primary
Agricultural Cooperative Credit Society,
Kongalnagaram,
Udumalpet Taluk,
Tiruppur District.



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5. The Inspector of Police,
CCIW CID, Coimbatore Rural Unit
Police Station,
Coimbatore – 641 018.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to cancel the mortgage deeds Document No.2229 of 2014 and 2231 of 2014 on the file of the Sub Registrar Office, Gomangalam within a time frame as fixed by this Court by considering the petitioner's representation dated 03.02.2023.

For Petitioners : Mr.R.Kannan

For R1 to R4 : Mr.R.U.Dinesh Rajkumar
Additional Government Pleader

For R5 : Mr.J.Subbaiah
Government Advocate (Crl.Side)

ORDER

The writ petition is filed seeking direction to the respondents to cancel the mortgage deeds executed by the petitioners in Document Nos.2229 of 2014 and 2231 of 2014 on the file of the Sub Registrar Office, Gomangalam within a time fixed by this Court by considering the petitioners' representation dated 03.02.2023.



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2. Mr.R.U.Dinesh Rajkumar, learned Additional Government Pleader

takes notice for the respondents 1 to 4 and Mr.J.Subbaiah, learned Government Advocate (Crl.Side) takes notice for the 5th respondent.

3. It is the case of the petitioners that they availed agricultural loans from the 4th respondent-Society and for proper payment of the loan amount, the petitioners also mortgaged the said properties in favour of 4th respondent on 12.08.2014 and executed proper mortgage deeds registered as Document Nos.2229 of 2014 and 2231 of 2014 on the file of the Sub Registrar Office, Gomangalam. It is the specific case of the petitioner that entire outstanding amount with interest on their loan accounts had been paid by them to the 4th respondent-Society. Therefore, the petitioners seek cancellation of the mortgage deeds executed by them to remove the encumbrance on the properties.

4. The 1st respondent filed a counter affidavit, wherein it is stated that an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 was ordered into the affairs of the 4th respondent-Society and based on the enquiry report, a criminal proceeding was initiated against the



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Management of the 4th respondent-Society. It is further stated that all the records pertains to the loans disbursed by the Society and mortgage documents are now in the possession of the 5th respondent, who is investigating the criminal case.

5. It is further stated by the 1st respondent in his counter affidavit that if the 5th respondent intimate to him that the petitioners have no role in the matter pending investigation and gives no objection for discharge of the petitioners' loan, the request of the petitioners can be considered and suitable orders will be passed for cancelling the registered mortgage deeds. The relevant averments of the 1st respondent in his counter affidavit reads as follows:-

“I state that if the 5th respondent confirm that the petitioner has no role in the Criminal Proceeding and gives a no-objection certificate to then the Petitioner's loan can be discharged, the same can be considered by the 4th respondent and suitable orders will be passed in cancelling the registered mortgage deed.”



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6. In view of the specific stand taken by the 1st respondent in his counter affidavit, this Court is inclined to issue a direction to the 5th respondent to consider the representation of the petitioners dated 03.02.2023 and take a final decision on the request of the petitioners for cancellation of the mortgage deeds and intimate the same to the 1st respondent within a period of four weeks from the date of receipt of copy of this order.

7. With the above direction, the writ petition is disposed of. No costs.

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(2/2)

Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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