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Comp.A.Nos.481 and 482 of 2023

in

C.P.No.55 of 2005

C.SARAVANAN, J.

The Company Application in Comp.A.No.481 of 2023 has been filed to direct the Official Liquidator to issue a receipt in respect of loan of Rs.30,000/- and another loan of Rs.40,000/- discharged under two mortgage deeds.

2. The Company Application in Comp.A.No.482 of 2023 has been filed to direct the Official Liquidator to issue cancellation of mortgage deeds.

3. The applicants herein are the legal heirs of Late Muthu Lakshmi Subramanian, w/o Late P.Subramanian. It appears that Late Muthu Lakshmi Subramanian had taken loan from M/s. Chennai Ekambareswara Saswatha Nidhi Ltd., which was ordered to be wound up by this Court on 24.03.2005 in C.P.No.55 of 2005.



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4. The case of the applicants is that their mother had earlier taken a loan on 28.02.1985 from the said company and had later discharged the same.

It is submitted that another loan was also taken by their Mother on 17.09.1990 and the property was once again mortgaged.

5. It is the specific case of the applicants that their Mother, during her life time had discharged the aforesaid loan and therefore, they have requested the office of the Official Liquidator to return the title deed of the property, which was mortgaged.

6. The learned counsel for the applicants has drawn attention to the report of the Official Liquidator, wherein in para 5, it has been stated that after the company was ordered to be wound up. The former Director of the company had filed a Statement of Affairs on 23.08.2005 before the Provisional Liquidation in accordance with Section 454 of the Companies Act, 1956. It is submitted that the report confirms that the applicant mother, viz., Muthu Lakshmi Subramanian did not appear in the Trade Debtors list of the company.



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7. It is therefore submitted that preponderance of probability is that the loan was taken by the Mother of the applicants were discharged by her during her lifetime. However, she did not take steps for retrieving the document from the company under liquidation before it was ordered to be wound up by this Court.

8. On the other hand, the office of the Official Liquidator submits that there is no proof of settlement of loan. It is submitted unless cash receipt was issued by the company, the relief sought for should not be granted. It is therefore submitted that the applicant may be directed to produce the settlement request of loan of Rs.40,000/-.

9. Considering the above report of the Official Liquidator, Court is inclined to allow these applications, as there are no records to prove that the deceased mother of the applicants was still a debtor of the company under liquidation.



10. Accordingly, these Company Applications are allowed. The office of the Official Liquidator is directed to return the title deed to the applicants.

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03.11.2023



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