



W.P(MD)No.17087 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.08.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17087 of 2015

A.Jai Ganesh

... Petitioner

Vs.

1.The Secretary,
Department of Co-operation,
Fort St. George,
Chennai - 600 009.

2.The Deputy Registrar (Housing),
15, Melur Main Road,
Opp. to Thiruvalluvar Bus Stop,
Madurai 20.

3.A 2248 Pandiyan Nagar Co-operative Society Limited,
45, Pallavan Nagar, Kalavasal,
Madurai, Rep. by its Secretary.

4.The Tamilnadu Cooperative Housing Federation,
No.48, Ritherdon Road, Vepery, Chennai.
*(R4 is impleaded vide order dated 24.07.2023
in W.M.P.(MD)No.14796 of 2023 in
W.P.(MD)No.17087 of 2015 by GRSJ)*

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to return the Parent original title deed in favour of Mani

1. Sale deed dated 21.08.1996 bearing Registration No.2683 of 1997,
2. Mortgage deed dated 25.10.1999 document registration No.3568 of 1999.

For Petitioner : Mr.T.S.R.Venkataramana, Senior Counsel,
For Ms.V.Janaki Devi.

For Respondents : Mr.N.GA.Nataraj,
Government Advocate for R1 to R3.
Mr.Kanmani Annamalai for R4.

ORDER

Heard the learned senior counsel for the writ petitioner, the learned Government Advocate for the respondents 1 to 3 and the learned counsel for the fourth respondent.

2.The petition mentioned property belonged to one Mani. He had purchased a vacant site vide sale deed dated 21.08.1996 (Document No. 2683/1997 on the file of the Sub Registrar Office, Thiruparankundram).



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The said Mani availed mortgage loan from the third respondent cooperative society on the strength of the said document. Subsequently, the property was sold in favour of the writ petitioner vide sale deed dated 04.03.2013 (Document No.844/2013). Even before the petitioner purchased the property, he had noticed that the property had been mortgaged in favour of the third respondent society. The case of the petitioner is that his vendor had agreed to clear the mortgage out of the sale consideration to be paid by the petitioner. According to the petitioner, the entire mortgage loan amount was directly paid by himself to the third respondent society. The discharge receipt was also registered on 28.02.2013. The petitioner would further claim that the then Secretary of the society had assured him that since the document is with the Tamil Nadu Cooperative Housing Federation, it would be collected from them and handed over to the petitioner in due course. The petitioner states that he acted on the said representation made by the then Secretary of the third respondent society.

3.However, when the petitioner approached the third respondent, stand was taken that the entire money said to have been paid by the



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petitioner was never credited to the account of the cooperative society and that it had been misappropriated by Thiru.Moovandan, then Secretary. It is further alleged that there was collusion and conspiracy between the said Moovandan on the one hand and the petitioner's vendor / Mani on the other. Therefore, the third respondent declined to take steps for securing the document that has been handed over to the fourth respondent / Federation. In view of the said stand taken by the third respondent, the present writ petition came to be filed.

4.This Court felt that since the document is lying with the Tamil Nadu Cooperative Housing Federation, it should be impleaded as a party respondent. The petitioner thereupon filed W.M.P.(MD)No.14796 of 2023 for impleading the Federation. It was allowed on 24.07.2023 and notice was ordered. The learned counsel for the Federation made it clear that the Federation would treat the transaction as not yet settled. It was submitted that on the strength of the petition mentioned property, the Federation had advanced a sum of Rs.3,00,000/- to the third respondent which is said to have paid a sum of Rs.2,67,000/- to Mani. Though this transaction had taken place way back in the year 1999, on account of the



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beneficial scheme introduced by the Government of Tamil Nadu waiving of interest on interest as well as interest on belated payment of installments, the current liability had only come to Rs.5,25,761/-.

5.I felt that if money could be paid by the petitioner directly to the Federation, the petitioner can get back the document. The learned senior counsel also felt that instead of arguing on technicalities, it would be better for the petitioner to purchase peace. Hence, the matter was adjourned.

6.Today ie., 28.08.2023, the petitioner has produced a demand draft for a sum of Rs.5,25,761/- favouring the fourth respondent / Federation. The learned standing counsel for the Federation still felt that there are some procedural formalities to be gone through.

7.Notwithstanding the reservations expressed by the learned standing counsel for the Federation, I directed the learned standing counsel to accept the original demand draft for the said sum and hand over the title documents to the petitioner. Accordingly, the original title



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documents deposited by the third respondent with the fourth respondent have been handed over in the Court to the petitioner directly. The petitioner is also directed to execute a letter of acknowledgement immediately. Earlier, the petitioner had handed over the demand draft bearing No.984461 drawn on State Bank of India, Pasumalai (Madurai) Branch in favour of the fourth respondent for a sum of Rs.5,25,761/- towards full and final settlement of all the liabilities arising out of the petition mentioned transaction. The copy of the demand draft shall form a part of the order.

8.It is stated that since the third respondent had not cleared the liability, the second respondent had attached the property on 16.11.2015. The second respondent is directed to raise the same forthwith and without any delay. The petitioner is also directed to execute an indemnity bond before the third respondent. This shall be done by the petitioner without any delay.

9.The third respondent is directed to initiate criminal prosecution against the said Moovandan by filing a proper complaint. The second



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respondent will oversee the same. As and when such a complaint is lodged, it shall be registered notwithstanding the delay in lodging the complaint. Investigation shall be speedily conducted and the legal process shall be expedited. This writ petition is disposed of accordingly.

No costs.

28.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

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