



W.P.(MD) No.21250 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2023

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD) No.21250 of 2021

Sakthivel Murugan
S/o.Soundrapandian

... Petitioner

Vs.

- 1.The Managing Director
Tamilnadu Backward Classes
Economic Development Corporation Ltd.,
No.1/1, Mayor Ramanathan Salai (East),
Near Gengureddy Subway, Egmore,
Chennai – 600 008.
- 2.The District Collector
Tirunelveli, Tirunelveli District.
- 3.The District Backward Classes
& Minorities Welfare Officer,
Tirunelveli, Tirunelveli District.
- 4.The Deputy Registrar of Cooperative Societies,
Cheranmahadevi, Tirunelveli District.
- 5.The Secretary
The Tirunelveli District Cooperative Bank Ltd.,
M.G.R.Maligai, Vanarapettai,
Tirunelveli - 627 003.
- 6.The Manager,
EE458-Pulimaankulam Primary



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Agriculture Cooperative Bank,
Pulimaankulam,
Karaisuthu Pudur Post – 627 657,
Radhapuram Taluk, Tirunelveli District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the 5th and 6th respondents to return back the petitioner's land documents (1) Original registered Sale Deed in Document No.1057/1998 dated 17.09.1998, (2) Certified Copy of the Sale Deed in Documents No.243/1997 dated 03.03.1997, (3) Certified copy of Sale Deed in Document No.294/1997 dated 07.03.1997 on the file of the Sub-Registrar Office, Thisaiyanvilai which were produced by the petitioner, while availing the loan from the 5th and 6th respondents by considering the petitioner's representations dated 27.03.2017, 03.05.2017 and 08.05.2017 within the time limit that may be stipulated by this Court.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondents : M/s.S.Jeyapriya
Government Advocate

ORDER

This Writ Petition has been filed for issuance of a Writ of Mandamus directing the fifth and sixth respondents to return back (1) Original Title Deed, and (2) Certified copies of the Title Deeds which were given as security for the loan availed by the petitioner from the fifth and sixth respondent Bank.



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2. It is an admitted case that the petitioner had availed loan and had given documents as security. The loan was also cleared in the year 2006 and closure of the loan was also communicated to the petitioner on 25.01.2006 through receipt. The grievance of the petitioner is that the documents that were given as security were not returned back to him. Hence, the present Writ Petition has been filed for a direction to the fifth and sixth respondents to return back to the petitioner the documents that were given as security for the loan.

3. The fourth respondent has filed a counter affidavit. The relevant portion is extracted hereunder:-

3. It is respectfully submitted that on perusal of records, the petitioner had completed the repayment of above said loan amount on 25.01.2006 and the mortgage deed created by the petitioner was cancelled and the same was duly registered on the file of Thisaiyanvilai Sub Registrar Office on 30.01.2006. Under these circumstances, after a long period of 11 years, the petitioner made a representation to the 2nd Respondent that the documents which were received by the Cooperative Society for sanctioning personal loan



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to the petitioner not handed over to him after closure of the said loan. The said representation was forwarded to the Joint Registrar of Cooperative Societies, Tirunelveli which was subsequently forwarded to this Respondent for necessary action. On receipt of the representation, this Respondent sent a communication to the petitioner herein vide Letter No.Na.Ka.25/2017 Visa(1) dated 25.04.2017 informing him that the documents which were produced by the petitioner for availing loan would have been sent to Tirunelveli District Central Cooperative Bank and the Loan Sanction Order alone would have been sent to the 6th Respondent Society and instructions issued to the 6th Respondent to get back the documents from the 5th Respondent Bank.

4. It is respectfully submitted that the petitioner once again made a representation to the 2nd Respondent on 08.05.2017, reiterated his requests and the same was forwarded to this Respondent for necessary action. In furtherance to the request of the petitioner, this Respondent sent a communication to the subordinates in regard to the petitioner's grievance. Based on which, the Sub Registrar of Cooperative Societies, Radhapuram after his sincere efforts, sent a report to this Respondent on 16.06.2017 stating that on



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25.01.2006 itself the loan account was cancelled by the then Secretary of 6th Respondent at Thisaiyanvilai Sub Registrar and entry has been made to that effect. Moreover at the time of cancelling the loan account itself all the documents which were obtained for security purpose would have been handed over to the petitioner. Hence the petitioner might have been received all the documents while cancellation of loan account on 25.01.2006. Moreover the Sub Registrar of Cooperative Societies, Radhapuram has categorically mentioned in his report that except the cancellation of loan document in respect of loan sanctioned to the petitioner herein there is no other document available in the Society. By citing the above report, this Respondent sent a communication to the petitioner herein vide Na.Ka.25/2017 Visa dated 21.06.2017.

5. It is respectfully submitted that the petitioner who repaid the loan amount and cancelled his loan account and received the documents on 25.01.2006 itself, after lapse of more than 10 years claiming that he did not receive the documents creates doubt that he might have been misplaced the documents somewhere. Further, even though this Respondent sent a communication to the petitioner on 21.06.2017, informing about the non availability of document with



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the Cooperative Society, after 4 years he sent a legal notice to the Cooperative Society on 10.03.2020. For which Reply notice was also sent by the Cooperative Society on 24.03.2020. Under these circumstances the petitioner has filed this writ petition in the year 2021. Further the Encumbrance Certificate clearly reflects that there is no encumbrance over the above said properties and the cancellation of mortgage by the 6th Respondent Society.

4. The fourth respondent has taken a stand that none of the documents are available with the fifth and sixth respondents. It is further stated that the loan was settled in the year 2006, whereas, the petitioner was making representations for returning back the documents (original and certified copies) in the year 2017 and therefore, the very claim made by the petitioner is doubted by the respondent.

5. There is no proof on the side of the fifth and sixth respondents to satisfy this Court that they have handed over to the petitioner the documents that were given by the petitioner as security. The respondents are making averments only on an assumption that since the request has been made at a later point of time,



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the documents would have been handed over to the petitioner. If the documents had been handed over to the petitioner, there is no reason for the petitioner to follow up with the fifth and sixth respondents for such a long period of time.

6. In view of the above, there shall a direction to the sixth respondent to make a complaint before the concerned jurisdictional police for giving a Non-Traceable Certificate. On receipt of the same, it shall be handed over to the petitioner, so that, the petitioner will be able to deal with the property without any further hindrance. This process shall be completed by the sixth respondent within a period of eight (8) weeks from the date of receipt of a copy of this order.

7. This Writ Petition is disposed of in the above terms. There shall no order as to costs.

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Index: Yes/ No
Neutral Citation: Yes / No
Speaking order / Non-Speaking order
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N.ANAND VENKATESH, J.

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