



W.P(MD)No.22480 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)No.22480 of 2023

Moorthy

... Petitioner

Vs

**1.The Joint Registrar of Co-operative Societies,
Madurai.**

**2.The Liquidator,
The Madurai Urban Co-operative Bank Limited,
Door No.32,
Naicker New Street,
Madurai-625 001.**

**3.The Sub Registrar,
Chokkikulam,
Madurai.**

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Direction, directing the second respondent to receive the sum of Rs.14,57,284/- (Rupees Fourteen lakhs Fifty Seven Thousand Two Hundred and Eighty Four only) from the petitioner and to execute a discharge receipt discharging the registered mortgage deed dated 15.09.2000 registered as Document No.3236 of 2000 on the file of the third respondent and hand over all the original



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parent title deeds to the petitioner and consequentially directing the third respondent to register the discharge receipt.

For Petitioner	:Mr.J.Barathan
For R1 & R3	:Mr.Thiraviyam Government Advocate
For R2	:Mr.M.Mahaboob Fazil for Mr.T.Lajapathi Roy Associates

ORDER

The petitioner's father one Karuppasamy has mortgaged his house property along with vacant land with the second respondent bank on 15.09.2000 and he died on 21.06.2006. The petitioner claims that while he was alive, he executed a Will with regard to his property in favour of the petitioner's brother one Murugan and the said Murugan has settled the property in his favour. In view of the Will and the settlement deed as on date he is having right over the property and he has also approached the Bank to accept his payment and to release the documents, however, the second respondent has not acted on it based on the objection from his brother.



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2. The learned counsel appearing for the petitioner submitted that on the objection of his brother Murugan, the petitioner has filed a Civil Suit in O.S.No.302 of 2011 on the file of the Additional District Munsif Court, Madurai Town and obtained a decree on 20.10.2017. The petitioner claims that along with decree copy he has approached the second respondent and has also offered to pay the entire loan amount obtained by his father. Since the second respondent has not taken any decision, therefore, the petitioner is before this Court.

3. The learned Government Advocate appearing for the respondents 1 & 3 submitted that there is some objections from the other legal heirs of the petitioner father Karuppasamy and therefore, they are not in a position to take the decision. A similar stand has been taken by the second respondent bank.

4. This Court considered the rival submissions made.

5. The petitioner claims that he is the owner of the property of Karuppasamy which has been mortgaged with the second respondent



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Bank. The petitioner also claims that he is having decree passed by the competent Civil Court in O.S.No.302/2011. Therefore, the respondents shall take a decision on the representation of the petitioner in the light of the decree granted and to release the document after receiving the loan amount from the petitioner. Before taking a decision, the second respondent bank shall also issue notice to the objectors ascertaining whether they are having any legal right and whether they filed any appeal as against the judgment and decree passed in O.S.No.302 of 2011. In the absence of any legal impediment, the respondents shall release the document to the petitioner within a period of eight weeks from the date of receipt of a copy of this order. No costs.

NCC : Yes / No.

Index : Yes / No.

Internet: Yes

am

14.09.2023

To

1.The Joint Registrar of Co-operative Societies,
Madurai.

2.The Sub Registrar,
Chokkikulam,
Madurai.



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B.PUGALENDHI, J.

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Order made in
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