



W.P.(MD)Nos.2511 and 2512 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.03.2023

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THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

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M.Ravi ... Petitioner in W.P.(MD)No.2511 of 2016

R.Muthumari ... Petitioner in W.P.(MD)No.2512 of 2016

Vs

L.I.C.Housing Finance Ltd.,
16/17, A.R.Plaza,
2nd Floor, North veli street,
Madurai - 625 001.

Represented by its Area Manager. ... Respondent in both Writ Petitions

Prayer in W.P.(MD)No.2511 of 2016:- Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent on 24.07.2015 and quash the same as illegal, void and consequently issue direction to release the documents furnished by the petitioner's vendor Late.R.Dhinakaran, D.Jeyamani as security towards the Loan Account No. 240015367 and also for issuance of No-objection Certificate (NOC) & No-



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Due Certificate(NDC) to the petitioner within a reasonable time period to be fixed by this Court.

Prayer in W.P.(MD)No.2512 of 2016:- Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned order of the respondent on 24.07.2015 and quash the same as illegal, void and consequently issue direction to release the documents furnished by the petitioner's vendor D.Jeyamani, Late.R.Dhinakaran, as security towards the Loan Account No. 240014321 and also for issuance of No-objection Certificate (NOC) & No-Due Certificate(NDC) to the petitioner within a reasonable time period to be fixed by this Court.

For Petitioners : Mr.C.Murugavel

For Respondents : Mr.V.Veerapandian
Vast Law Association
(in both petitions)

COMMON ORDER

The respective petitioner challenges an order dated 24.07.2015 of the respondent and seek a direction for the release of documents furnished by his/her vendors to the respondent as security for loan account Nos. 240015367 and 240014321.



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2. The respective petitioner states that he/she purchased a house built on T.S.No.4411, ad-measuring 1452 Sq.mts and 1232 Sq.mts, respectively, from Mr.R.Dhinakaran his wife Jeyamani and their sons D.Rajkumar under registered sale deed dated 15.09.2007. The respective petitioner's vendor had received a housing loan from the respondent. In relation thereto, they had created a security over the property in favour of the respondent. The loan availed of by the respective petitioner's vendors from the respondent was partly paid at the time of purchase of the property by the respective petitioner. The respective petitioner asserts that he/she discharged the loan between the years 2007 and 2010. By referring to the payment on 26.03.2010 and 31.12.2009 respectively, it is stated that the entire amount due and payable to the respondent was discharged. Thereafter, the respective petitioner requested the respondent to provide the original title deeds to him /her. In spite of issuance of lawyer's notice of 09.01.2014, the respondent failed to hand over the documents. The present writ petitions were filed in these facts and circumstances.



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3. Learned counsel for the respondent submits that certain documents were called for as a pre-condition for returning the original title documents to the respective petitioner. In specific, he submits that the certified copy of the sale deeds in favour of the petitioner, the certified copy of the death certificate of R.Dinakaran, the certified copy of the legal heir certificate of Mr.R.Dinakaran and a no-objection certificate from the legal representative of Mr.R.Dinakaran, were called for.

4. In response, learned counsel for the respective petitioner submits that the petitioners are ready and willing to prove the certified copies of the sale deeds in favour of the respective petitioner. As regards the other documents, he submits that the said documents are not available with the respective petitioner, who is not in a position to obtain such documents.

5. The respondent provided credit facilities to the respective petitioner's vendor in relation to the purchase of an immovable property. It appears that the original title deeds were deposited with the respondent as security in relation to such credit facilities. From the perspective of the



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lender, the key consideration is whether the loan was duly discharged. The respective petitioner have placed on record receipts dated 31.12.2009 and 26.03.2010, respectively. Both these receipts indicate that the relevant loan was fully discharged and that there are no dues in respect thereof either towards principal or interest. Learned counsel for the respondent also does not refute the assertion that the respective loan was fully discharged.

6. Apart from the evidence that the loan was duly discharged, as a lender, the respondent would require evidence that the petitioner is the current owner of the property and therefore, entitled to the title deeds relating thereto. For such purpose, the respondent is entitled to call for the production of certified copies of the sale deeds evidencing that the petitioner is the owner of the relevant property. As submitted by the learned counsel for the respective petitioner, the petitioners would not be in a position to produce the death certificate, legal heirship certificate and no objection certificate from the legal heirs of vendors. Nevertheless, the respondent may require some protection in relation thereto. In order to alleviate the legitimate concerns of the respondent in this regard, the



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respective petitioner should provide an indemnity in respect of any claims by third parties in relation to the title deeds.

7. Accordingly, these writ petitions are disposed of by directing the respondent to hand over the original title deeds subject to the production of the following documents by the respective petitioner:

- i) certified copies of sale deed in favour of the respective petitioner;
- ii) an indemnity bond indemnifying the respondent if rival claims are made on the respondent in relation to the original title deeds;
- iii) subject to the provision of the above documents, the respondent is also directed to provide a no objection certificate and no due certificate to the respective petitioner.

No costs.

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NCC : Yes/No
Index :Yes/No
Internet :Yes / No

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