



W.P(MD)No.25455 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 01.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25455 of 2023

1.S.Kumar
2.P.Madasamy

... Petitioners

Vs.

1.The Managing Director /
Additional Registrar,
Tamil Nadu Co-operative Housing
Federation Limited,
No.48, Ritherdon Road,
Vepari, Chennai – 600 007.

2.The Deputy Registrar (Housing),
No.5, Baskar Complex,
Besant Road,
Chinna Chokkikulam,
Madurai – 625 002.

3.The Secretary,
M.D.A.H.S.124,
Madurai District All Co-operative Societies'
Worker and Public Service Co-operative Housing
Society Limited,
Arasaradi, Madurai – 625 016.

... 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 first respondent to return the petitioner's original document in the name of Tr.Pitchai (late), dated 24.06.1961 within the time limit as stipulated by the Court.

For Petitioners : Mr.R.Ravi Kumar

For Respondents : Mr.Kanmani Annamalai for R.1

Mr.S.RA.Ramachandran
Additional Government Pleader
for R.2 & R.3

ORDER

Heard both sides.

2.One Shanmugavel and Madasamy availed mortgage loan from the third respondent way back on 10.11.2004. The title document was deposited with the third respondent. It is not in dispute that the loan liability has been cleared in full in the year 2017 itself. The petitioners want this Court to direct the respondents to return the documents.

3.The third respondent had in turn handed over the title document to the first respondent federation and obtained financial facilities.



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4. It appears that the third respondent had not settled their liability towards the first respondent. Similarly placed borrower from the third respondent Society filed W.P(MD)No.11027 of 2021 seeking the similar relief. A learned Judge of this Court vide order dated 13.07.2021 disposed of the said writ petition in the following terms:

“7. In the considered view of this Court, the petitioners have discharged the entire loan amount and the same is evident from the registered discharge receipt issued on 15.04.2009. This receipt has been registered as Doc.No. 2691/2009. This receipt is a prima facie proof for the redemption of the mortgage and the discharge of the loan.

8. The misappropriation on the part of the Secretary of the Society cannot be put against the petitioners. The petitioners have been running from pillar to post for the last eleven years for getting back the original documents. Ultimately they have knocked the doors of this Court. Therefore the handing over of the original document of the petitioner cannot be postponed and kept pending endlessly awaiting for a report to be filed by the enquiry office under Section 81 of the Act.



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9. In view of the above discussion, there shall be a direction to the third respondent to hand over the original sale deed dated 30.08.2000 to the first respondent within a period of two(2) weeks from the date of receipt of a copy of this order. The first respondent immediately on receipt of the same, shall hand over the original document to the first petitioner within a period of two (2) weeks thereafter.”

I am inclined to adopt the very same approach in the present case also. The third respondent will write to the first respondent seeking return of the documents. The first respondent will in turn return the documents from the third respondent and the petitioners can collect the petition mentioned original documents from the third respondent. This exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. It is declared that the third respondent's liability to the first respondent to the tune of Rs.15,77,000/- (Rupees Fifteen Lakhs Seventy Seven Thousand only) arising out of the present transaction remains undischarged. It is open to the first respondent to take appropriate steps from recovering the said amount from the third respondent.



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5. With this observation and liberty to the first respondent, this writ petition is allowed. There shall be no order as to costs.

01.12.2023

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

To

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G.R.SWAMINATHAN, J.

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