



W.P(MD)No.28658 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.01.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.28658 of 2022

M.S.Selvi

... Petitioner

Vs.

- 1.The Director,
Co-operative Housing Federation,
48, Ritherton Salai,
Veppery, Chennai 600 007.
- 2.The District Registrar (Administration),
Office of the Mahal Registrar Office,
Madurai South,
171, Palace Road, Madurai -1.
- 3.The Deputy Registrar (Housing Board),
5, Baskaran Complex 2nd Floor,
Ramamoorthi Salai,
Chinna Chokkikulam,
Madurai 625 002.
- 4.The Sub-Registrar,
Office of the Sub-Registrar,
Madurai South, Madurai 625 001.
- 5.The Secretary,
A-2248, Madurai Pandian Nagar Co-operative
Housing Society Limited,
45A, Mokkaiah Compound,
Pakalavan Nagar Main Road, Kalavasal,
Madurai.

... Respondents



W.P(MD)No.28658 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the third respondent to submit his enquiry report forthwith to the second respondent and consequently direct the second respondent to remove/delete the illegal entry made with respect to the property situated at RS.No.14/1, Silaiman Village, Madurai District based on the petitioner's representation dated 04.07.2022 within the time stipulated by this Court.

For Petitioner : Mr.S.Poornachandran

For Respondents : Mr.S.Shanmugavel (for R1, R2 & R4)
Additional Government Pleader

Mr.SRA.Ramachandran (for R3 & R5)
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The case of the petitioner is that the petition mentioned property originally belonged to one Sudalaimuthu. He had sold the same in favour of one S.Ponnammal, who is none other than the grand-mother of the writ petitioner herein. This transaction has taken place way back in the year 1986. It is a registered document. The specific allegation of the petitioner is that the fourth respondent had created an encumbrance over the very same property as



W.P(MD)No.28658 of 2022

if the said Sudalaimuthu had mortgaged the property in the year 2000. When Sudalaimuthu had already parted with the property by executing a sale deed on 14.03.1986 (Doc No.977/1986), he could not have created a mortgage over the very same property subsequently, because by then Sudalaimuthu has lost his title. The petitioner wants this encumbrance to be deleted.

3. The petitioner's case is no doubt formidable. But the petitioner has to necessarily workout his right elsewhere. Granting such liberty to the writ petitioner, the Writ Petition is disposed of. No costs.

4. The third respondent is however directed to hold an enquiry under Section 81 of the Act by taking up the petitioner's complaint and conclude the same on merits and in accordance with law within a stipulated period. If it is revealed that the fifth respondent had committed an act of fraud, which has infringed the right of the writ petitioner, certainly the third respondent is obliged to issue appropriate and issue consequential direction. This exercise shall be completed within a period of three months from the date of receipt of copy of this order.

24.01.2023

NCC : Yes / No

Index : Yes / No

Rmk



W.P(MD)No.28658 of 2022

WEB COPY

- To
- 1.The Director,
Co-operative Housing Federation,
48, Ritherton Salai,
Veppery, Chennai 600 007.
 - 2.The District Registrar (Administration),
Office of the Mahal Registrar Office,
Madurai South,
171, Palace Road, Madurai -1.
 - 3.The Deputy Registrar (Housing Board),
5, Baskaran Complex 2nd Floor,
Ramamoorthi Salai,
Chinna Chokkikulam,
Madurai 625 002.
 - 4.The Sub-Registrar,
Office of the Sub-Registrar,
Madurai South, Madurai 625 001.
 - 5.The Secretary,
A-2248, Madurai Pandian Nagar Co-operative
Housing Society Limited,
45A, Mokkaiah Compound,
Pakalavan Nagar Main Road, Kalavasal,
Madurai.



WEB COPY



W.P(MD)No.28658 of 2022

G.R.SWAMINATHAN, J.,

Rmk

W.P(MD)No.28658 of 2022

24.01.2023