



W.P.No.17285 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.17285 of 2022
and
W.M.P. No. 16621 of 2022

Ponnammal

... Petitioner

Vs

1. Managing Director,
Chennimalai Co-operative Urban Bank Ltd., No. P.E.8,
Appoi Chetty Street,
Chennimalai – 638 051.
Perundurai Taluk,
Erode District.

2. Kumutha

3. Mohan

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the notice of the first respondent dated 10.05.2022 and quash the same and consequentially directing the first respondent to return the original of the document No. 61/1978 registered with Chennimalai Sub Registrar Office to the petitioner.



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For Petitioner : Mr. J.Titus Enock
For Respondents : Mr. M.R.Gokul Krishnan,
Additional Government Pleader (for R1)
Mr. V.Ragunathan (for R2 & R3)

O R D E R

This Writ Petition has been filed challenging the order passed by the first respondent dated 10.05.2022, thereby the request made by the petitioner seeking return of original documents after repayment of the loan availed by her was rejected.

2. Heard the learned the learned counsel for both sides and perused the materials available on record.

3. The petitioner is the mother-in-law of the second respondent and grandmother of the third respondent. The petitioner's son, Thangaraj, had executed a settlement deed in favour of the petitioner, granting her a life interest and the right to mortgage the said property during her lifetime. On the strength of this particular clause, the petitioner mortgaged the property



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settled in her favour to the first respondent and availed a loan of Rs.30,000/- on 25.06.1999, depositing the original title deed. After settling the entire loan amount, the petitioner requested the return of the original parent documents.

4. While that being so, the settlor, viz., the son of the petitioner, died. Consequently, the second and third respondents, who are the wife and son of the deceased, made an objection to releasing the original documents in favour of the petitioner.

5. Admittedly, the petitioner has a life interest and also the right to mortgage the property in which the petitioner was given a life interest. Accordingly, the petitioner had mortgaged the property and availed of a loan. After repayment of the entire loan, the second and third respondents have no say in returning the original documents, which were deposited by the petitioner while availing of the loan. Though some suits are pending between the petitioner and the second and third respondents, this has no bearing on the first respondent's obligation to return the original documents



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deposited by the petitioner while availing of the loan.

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6. On a perusal of the settlement deed dated 04.11.1977, it reveals that after the lifetime of the petitioner, the subject property would revert back to the settlor, viz., the son of the petitioner herein. Now, the petitioner's son has died, and as such, the petitioner, second, and third respondents, being the legal heirs of the deceased son of the petitioner, have an absolute right over the subject property.

7. In view of the above, the impugned order cannot be sustained. Accordingly, the impugned order dated 10.05.2022 is hereby quashed. It is further directed that the first respondent shall return the original documents, deposited by the petitioner while availing the loan, to the petitioner forthwith. It is clarified that there is no dispute regarding the share of the petitioner, second respondent, and third respondent in the said property, following the demise of the second respondent's husband.



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8. In the result, this Writ Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index:Yes/No

Neutral Citation/Yes/No

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To

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G.K.ILANTHIRAIYAN, J.

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