



W.P.(MD)No.4718 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM :

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.4718 of 2023

Savithri.R

...Petitioner

Vs.

- 1.The Managng Director,
Tamil Nadu Co-operative Housing Federation,
48, Rithertont Road,
Veppary,
Chennai-600007.
- 2.The Deputy Registrar (Housing),
5-A, Besant Road,
Ramamoorthy Road,
Chokkikulam, Madurai-625002.
- 3.The Secretary,
M.D.A.H.S.G. 124, Madurai District All Co-operative
Societies' Workers and Public Service Co-operative
Housing Society Ltd.,
14 A, Chithrakala Mini Colony, 1st Street,
Fact Urakkidangu,
Thirunagar,
Madurai-625002,
Madurai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the



W.P(MD)No.4718 of 2023

respondents to return of the petitioner's title deeds of sale deed Doc.No. 1711/1995 dated 14.07.1995 and its parent document of Doc.No.1307/1992 dated 10.06.1992 registered at Sub Registrar Office, Arasaradi, Madurai.

For Petitioner : Mr.R.Murugappan
For R1 : Mr.S.Kanmani Annamalai
For R2 & R3 : Mr.S.Kameswaran
Government Advocate

ORDER

This Writ Petition is filed seeking for a direction to direct the respondents to return the writ petitioner's title deeds, particularly, sale deed bearing Document No.1711/1995, dated 14.07.1995 and its parent document bearing No.1307/1992, dated 10.06.1992 of Arasaradi Sub Registrar, Madurai.

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

3. The learned counsel appearing for the writ petitioner submitted that the writ petitioner had availed a loan of Rs.1,50,000/- (Rupees One



W.P(MD)No.4718 of 2023

WEB COPY

Lakh and Fifty Thousand only) in the year 2004 and he further submitted that the entire loan amount was disbursed by the writ petitioner to the third respondent Society in the year 2017 and that was acknowledged by the Secretary of the third respondent Society on 10.07.2017, however, so far, the title deeds pertaining to the said mortgage loan were not returned by the third respondent Society. Hence, this writ petition is filed.

4. The learned Government Advocate appearing for the respondents 2 and 3, on instructions, submitted that, the said Secretary, who had received the money in discharge of the writ petitioner's loan, did not remit the same to the third respondent Society, for which, surcharge proceedings have been initiated as against him. During the pendency of the same, the said person passed away and hence, final surcharge order has been passed as against the wife of the deceased Secretary of the third respondent, namely, Mala.

5. The learned counsel appearing for the first respondent categorically submitted that documents pertaining to the mortgage loan are now under the custody of the first respondent.



W.P(MD)No.4718 of 2023

WEB COPY

6. Since the Primary Societies do not have any independent financial capacity and the same are funded by the federation/first respondent, the entire loan amount which was funded by the first respondent should have been credited back to the first respondent by the third respondent Society now and then, whenever, the loan amount is repaid by the customers. Since the said exercise has not been done by the third respondent Society, until and unless the entire amount is repaid to the third respondent, the question of keeping the original documents of the writ petitioner will never arise. However, this Court is of the considered view that the writ petitioner cannot be said to be at fault and he should not be made to suffer for no fault on his part, considering the fact that the writ petitioner has completely disbursed the loan availed from the third respondent Society.

6. In view of the same, this Court hereby direct the writ petitioner to make an application to the first respondent forthwith and on receipt of the same, the first respondent is directed to hand over the title deeds, particularly, sale deed bearing Document No.1711/1995 dated 14.07.1995 and its parent document bearing No.1307/1992 dated



W.P(MD)No.4718 of 2023

WEB COPY

10.06.1992 back to the writ petitioner within a period of four weeks thereafter from receiving the application from the writ petitioner. However, it is declared that the third respondent's liability to the first respondent to the tune of Rs.1,50,000/- (Rupees One Lakh and Fifth Thousand only) with interest is not absolved. It is open to the first respondent to take appropriate steps to recover the said amount from the third respondent Society.

7. Accordingly, with the above observation and direction, this Writ Petition stands allowed. There shall be no order as to costs.

05.12.2024

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

Note : Issue order copy on 09.12.2024

To

- 1.The Managing Director,
Tamil Nadu Co-operative Housing Federation,
48, Rithertont Road,
Veppary, Chennai-600007.
- 2.The Deputy Registrar (Housing),
5-A, Besant Road,
Ramamoorthy Road,
Chokkikulam, Madurai-625002.



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W.P(MD)No.4718 of 2023

L.VICTORIA GOWRI, J

csn

3.The Secretary,
M.D.A.H.S.G. 124, Madurai District All Co-operative
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Housing Society Ltd.,
14 A, Chithrakala Mini Colony, 1st Street,
Fact Urakkidangu,
Thirunagar,
Madurai-625002,
Madurai District

Order made in
W.P.(MD)No.4718 of 2023

Dated : 05.12.2024