



W.P(MD)No.11918 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.07.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11918 of 2024

K.Vaijyanthimala

... Petitioner

Vs.

- 1.The Registrar of Co-operative Societies,
O/o.The Registrar of Co-operative Societies,
No.170, EVR Periyar High Road,
Kilpauk,
Chennai – 600 010.
- 2.The Joint Registrar of Co-operative Societies,
O/o.The Joint Registrar of Co-operative Societies,
Dindigul Region,
Dindigul.
- 3.The Deputy Registrar of Co-operative Societies,
O/o.The Deputy Registrar of Co-operative Societies,
Palani Circle,
Dindigul District.
- 4.The Administrator,
DD520, Vadamadurai Primary Agricultural
Co-operative Credit Society,
Vadamadurai,
Vedasanthur Taluk,
Dindigul District.

... Respondents



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Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 2 and 3 to re-convey the agriculture lands in Survey Nos.949, 951 and 936/3B to the extent of 4 Acres and 32 cents situated at Sengulathupatti Village, Vadamadurai, Vedasandur Taluk, Dindigul District in favour of the petitioner by executing document before the office of the Sub-Registrar, Vadamadurai on the basis of the proceeding passed by the second respondent vide Na.Ka.No.3809/2010/VeSeSa dated 19.09.2023 and consequential direction to the fourth respondent to handover the possession of the above lands.

For Petitioner : Mr.D.Shanmugaraja Sethupathi
For Respondents : Mr.M.Senthil Ayyanar
Government Advocate
for R.1 to R.3

Mr.P.Mahendran for R.4

ORDER

Heard both sides.

2.The writ petitioner's grandmother had availed mortgage loan from the fourth respondent Society in the year 1970. She committed default. The property was brought to sale in the year 1973. The Society itself purchased the property for a sum of Rs.4080/-. The principal mortgage amount was Rs.3000/-. The petitioner's father Thiru.Krishnamoorthy sought reconveyance of the property in the year



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1993-94. The authorities called upon the petitioner's father to avail remedy under Rule 131 of the Tamil Nadu Co-operative Societies Rules, 1988. The petitioner's father remitted a sum of Rs.37,225/- in the year 2011. He died in the year 2012. Thereafter, the petitioner took up the matter and pursued the same.

3.The case of the petitioner is that the Society (4th respondent) passed resolution for reconveyance. The genuineness of the resolution is contested by the learned counsel appearing for the fourth respondent. In fact, the fourth respondent in this writ petition has filed a counter affidavit to that effect. This writ petition has been filed for directing the respondents to reconvey the petition mentioned property.

4.The learned counsel appearing for the petitioner relies on Rule 131. It reads as follows:

“131. Reconveyance of immovable property by a society. — (1) Where an immovable property purchased by a society as decree-holder is in its possession the society may with the prior approval of the Registrar and subject to such conditions as may be imposed by him reconvey such property to the original owner on an application in writing made in this behalf.



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(2) Along with the application for reconveyance of the property the original owner shall deposit with the society-

(a) the amount at which the property was purchased by the society including stamp duty and other charges paid upto the confirmation of sale;

(b) the interest on the above mentioned amount at the maximum lending rate in the case of a credit society or at a rate not less than the maximum borrowing rate, in the case of any other society, from the date of purchase till the date of deposit of the amount ; and

(c) other expenses incurred in relation to such property.”

A careful reading of the aforesaid provision indicates that where the Society itself has purchased the property, it can very well reconvey the same. This liberty is given to the Society. But before the Society decides to reconvey the property, it must obtain prior approval of the Registrar. The other conditions set out in the Rule also will have to be fulfilled.

5.In this case, even according to the writ petitioner, the Regional Joint Registrar, Dindigul granted permission for reconveyance only on 19.09.2023. The resolution relied on by the petitioner is dated



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04.08.2015. Even in the proceedings dated 19.09.2023 passed by the Regional Joint Registrar of Co-operative Societies, Dindigul there is no reference to the resolution of the Society now relied upon by the learned counsel appearing for the petitioner. The petitioner seeks to put the cart before the horse. Before any resolution for reconveyance is passed by the Society concerned, there must be a prior approval by the Registrar. In this case, approval of the Registrar is available. It is for the Society to take a call in the matter. Therefore, at this stage Writ of Mandamus as sought for by the petitioner cannot be granted. Since permission of the second respondent is already available, reconveyance can be made in favour of the legal heirs concerned if the fourth respondent decides to do so.

6.Granted liberty to the petitioner and other legal heirs to pursue their remedy before the fourth respondent, this writ petition is disposed of. There shall be no order as to costs.

15.07.2024

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



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G.R.SWAMINATHAN,J.

MGA

To

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