



W.P.(MD) No.11726 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P.(MD) No.11726 of 2015

1.R.Amasi

2.A.Santha

.. Petitioners

Vs.

The Special Officer (MDA/HSC-41),
Southern Railway Employees and Public Service
Co-operative Housing Society,
Tallakulam, Madurai-625 002.

.. Respondent

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Mandamus, directing the respondent herein to handover the original house site document in respect of the property bearing T.S.No.1932/2, Ward No.55 and D.No.8F, Khaja Street, Madurai to the petitioners within a time limit to be fixed by this Court.

For Petitioners : Mr.PT.S.Narendravasan

For Respondent : No appearance



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ORDER

The petitioners have filed this writ petition seeking a directing to the respondent to handover the original house site document to them in respect of the property bearing T.S.No.1932/2, Ward No.55 and D.No.8F, Khaja Street, Madurai.

2. An affidavit of service has been filed, wherein it is seen that the private notice that has been sought to be served on the respondent had returned with an endorsement “refused”. Hence, notice is deemed to have been completed on the respondent.

3. Heard Mr.PT.S.Narendravasan, learned counsel for the petitioners.

4. The learned counsel for the petitioners would submit that the petitioners being members of the respondent-Society, had approached the respondent for a housing loan and were directed to provide security for sanctioning the loan. Pursuant to the direction, the petitioners have



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handed over the original document of their house site as security for the loan. A sum of Rs.4,00,000/- was sanctioned and the petitioners have also executed a mortgage deed. Even though the loan was sanctioned, no amount had been disbursed. In the interregnum, a proceeding under Section 81 of the Tamil Nadu Co-operative Societies Act, 1983 had been initiated in which the petitioners were also arrayed as parties. However, in the conclusion of the said proceedings, the petitioners were discharged, as it had been found that no amounts had been received pursuant to the sanction of the loan to the petitioners. The petitioners made a representation for handing over the original document but however, the same had not been handed over till date.

5. The learned counsel for the petitioners also placed reliance upon the communication dated 17.12.2014 issued by the Joint Registrar (Housing), Madurai to the Managing Director, Tamil Nadu Cooperative Housing Board, Chennai indicating that the petitioners were one of the persons who have been discharged in the surcharge proceedings and placed the request of the petitioners along with the order passed under



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Section 87 of the Tamil Nadu Co-operative Societies Act. In spite of the said communication, since the document has not been returned, the petitioners have filed this writ petition and therefore, they would seek a direction to the respondent to handover the documents.

6. I have considered the submissions made by the learned counsel appearing for the petitioners.

7. The petitioners claim to have handed over the original document as security for sanctioning of the loan. Even though the loan was sanctioned, the petitioners had not been disbursed with the said loan. This is substantiated from the findings given in the proceedings under Section 87 of the Tamil Nadu Co-operative Societies Act. In such a manner, I do not find any impediment in entertaining the claim made by the petitioners.

8. In fine, this Writ Petition is allowed. The respondent is directed to hand over the original document in respect of the property bearing



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T.S.No.1932/2, Ward No.55 and D.No.8F, Khaja Street, Madurai to the
petitioners within a week from the date of receipt of a copy of this order.

There shall be no order as to costs.

04.11.2024

NCC : Yes/No

Index : Yes/No

Internet : Yes

abr

To

The Special Officer (MDA/HSC-41),
Southern Railway Employees and Public Service
Co-operative Housing Society,
Tallakulam, Madurai-625 002.



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K.KUMARESH BABU, J.

abr

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