



*W.P.(MD) No.16618 of 2015*

**WEB COPY** BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

**DATED: 27.11.2024**

**CORAM:**

**THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

**W.P.(MD) No.16618 of 2015  
and  
M.P.(MD) No.1 of 2015**

**N.Durai Raj**

**... Petitioner**

**/vs./**

1.The Registrar,  
Tamil Nadu Co-op Housing Federation,  
No.48, Ritherdon Road,  
Veperi,  
Chennai 600 007.

2.The Deputy Registrar,  
Tamil Nadu Co-op Housing Federation,  
Regional Office,  
A.A.Block,  
Sengulam Colony,  
Mannarpuram,  
Trichy 620 020.

3.The Joint Registrar,  
Co-operative Societies (Housing),  
(Multi Complex),  
Palnokku Valagam,



W.P.(MD) No.16618 of 2015

WEB COPY

Khaja Malai,  
Trichy 620 023.

4.The Special Officer,  
TVS Nagar Co-operative Housing Society Ltd (R-1357),  
Poonga Commercial Complex,  
TVS Nagar, Khaja Malai, Trichy 620 023.

5.The Secretary,  
TVS Nagar Co-operative Housing Society Ltd (R-1357),  
Poonga Commercial Complex,  
TVS Nagar, Khaja Malai,  
Trichy 620 023.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the undated Impugned Notice relating to U.No.429, Loan No.051 sent by the 5th Respondent and quash the same and direct the 5th Respondent to return the mortgage by deposit of title deeds documents of the Petitioner's Loan No.051 within the time stipulated by this Court.

For Petitioner : Mr.M.R.Sreenivasan

For Respondents : Mr.R.Suresh Kumar

Additional Government Pleader

### **ORDER**

The writ petition had been filed challenging the demand notice issued by the fifth respondent calling upon the petitioner to pay a sum of Rs.3,16,886/-, which included the missed EMIs and penal interest on the same.



*W.P.(MD) No.16618 of 2015*

WEB COPY

2. The learned counsel for the petitioner would contend that the petitioner had settled the entire dues to the fifth respondent Society and had also produced the receipts evidencing such payment. However, the same was controverted by the learned Additional Government Pleader appearing on behalf of the respondents by contenting that it is only for the actual dues from the petitioner, the demand notice had been issued and the said receipts do not reflect the loan number, to which the amounts have been credited to and therefore, in that regard, he would submit that the petitioner is liable to pay the amount demanded.

3. When a query was raised as to whether any action had been initiated against the person in-charge of the affairs of the Society, the learned Additional Government Pleader had sought time on 11.11.2024 to get instructions and to produce surcharge proceedings. Today, he had also produced the surcharge proceedings initiated against one Balasubramaniam, former Secretary of the fifth respondent Society.



*W.P.(MD) No.16618 of 2015*

WEB COPY

4. A perusal of the said surcharge proceedings would indicate that the petitioner's name had been included in serial No.16 and various amounts under the receipts have been shown to have been received which was evidenced by the authorities during the enquiry under Section 81 of the Act and thereafter, the further proceedings under Section 87 of the Act had been conducted and the said Balasubramaniam was fastened with the liability for a sum of Rs.40,33,891/- which amount represents the amount collected from various borrowers of the fifth respondent Society by the said Balasubramaniam and not having been remitted to the account of the fifth respondent Society.

5. Since already under Section 81 enquiry, it was found that the petitioner had paid certain amounts which also correlates to the receipts filed by the petitioner, I am of the view that if the present demand notice is permitted to be proceeded with, it would only be an unjust enrichment by the fifth respondent Society. Hence, the impugned demand is set aside. The original documents submitted by the petitioner for obtaining the loan from the fifth respondent society shall be returned by the first respondent, who is in possession of the same within a period of four weeks from the date of receipt of a copy of this order.



*W.P.(MD) No.16618 of 2015*

WEB COPY

6. The Writ Petition stands disposed of, accordingly. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Index : Yes / No  
Internet : Yes / No  
mm

**27.11.2024**

To

1.The Registrar,  
Tamil Nadu Co-op Housing Federation,  
No.48, Ritherdon Road,  
Veperi,  
Chennai 600 007.

2.The Deputy Registrar,  
Tamil Nadu Co-op Housing Federation,  
Regional Office,  
A.A.Block,  
Sengulam Colony,  
Mannarpuram,  
Trichy 620 020.

3.The Joint Registrar,  
Co-operative Societies (Housing),  
(Multi Complex),  
Palnokku Valagam,  
Khaja Malai,  
Trichy 620 023.

5/7



*W.P.(MD) No.16618 of 2015*

WEB COPY

4.The Special Officer,  
TVS Nagar Co-operative Housing Society Ltd (R-1357),  
Poonga Commercial Complex,  
TVS Nagar, Khaja Malai,  
Trichy 620 023.

5.The Secretary,  
TVS Nagar Co-operative Housing Society Ltd (R-1357),  
Poonga Commercial Complex,  
TVS Nagar, Khaja Malai,  
Trichy 620 023.



WEB COPY



*W.P.(MD) No.16618 of 2015*

**K.KUMARESH BABU, J.**

mm

**W.P.(MD) No.16618 of 2015**

**27.11.2024**