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A No. 3579 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-10-2025

CORAM

THE HONOURABLE DR.JUSTICE R.N.MANJULA

A No. 3579 of 2025

AND

CS NO. 49 OF 2010

1. C.S.Balakrishnan and another
Bothare residing at No.17.
THIRUVOTTRIYUR HIGH ROAD,
THIRUVOTRIYUR, CHENNAI-600
019.

2. Dr.C.S.Rupendrakumar
Chennai

Applicant(s)

Vs

1. The Purasawakam Santhatha Sanga
Nidhi Ltd
Represented by its Trustee
N.Sankaranarayanan, No.49/47, Vellala
Street, Purasawakkam, Chennai 600
084.

Respondent(s)

PRAYER

To direct the Registry, High Court to transfer the amount of Rs.34,11,561.31/- lying in the credit of C.S.No.49 of 2010 to the Competent Authority, viz the District Revenue Officer, Chennai District, Collectorate, Chennai enable the applicant/Defendant to get back the title deeds.



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For Applicant(s): M/s.A.Visagan
A.Vidya
S.Vijayakumar

For Respondent:

ORDER

This application has been filed by the defendants to direct the Registry to transfer the amount of Rs.34,11,561.31 lying in the credit of [C.S.No.49](#) of 2010 to the Competent Authority, viz., the District Revenue Officer, Chennai District, Collectorate, Chennai, to enable the applicant/defendant to get back the title deeds.

2. The 1st respondent has filed a suit in [C.S.No. 49](#) of 2010 against the defendants for recovery of the sum of Rs. 7,053,791, and these defendants have also filed another suit in C.S.No. 789 of 2010 against the 1st respondent for foreclosure of a mortgage and to hand over the title deeds to the defendants. Both the suits got disposed of on 01.10.2024. In the judgement of this Court on 01.10.2024, a direction has been given to the defendants to pay a sum of Rs. 34,88,304/- to the Registrar-General, High Court, Madras, to the credit of C.S. No. 49 of 2010 as the total settlement for the mortgage loan availed by the defendants from the 1st respondent.

3. The learned counsel for the applicant submitted that as per the direction of this Court, the amount has already been deposited in the Court. However, the title deeds have not been released to him, and he was given to understand that



all the title deeds have been seized by the EOW IV court, and a case has been registered against the defendants by the respondent in Cr. No. 13 of 2024 on the file of the EOW IV, Chennai - 600 083. In view of the same, all the documents are in the custody of the Special Judge, TANPID Court, Chennai.

4. It is further submitted that an application has been filed before the TANPID Court for the return of documents by enclosing the order of this Court dated 01.10.2024, and the TANPID Court has instructed the applicant to transfer the deposit in the High Court towards the credit of the suit in C.S. No. 49 of 2010 to the competent authority, DRO, Chennai. Pursuant to that, these applications have been filed seeking to transfer the above sum deposited in the credit of C.S.No.49 of 2010 to the Competent Authority, viz. the District Revenue Officer, Chennai District, Collectorate, Chennai, and to enable the applicant to get back his title deeds.

5. However, the learned counsel for the respondent/plaintiff in C.S. No. 49/2010 has raised objections, stating that he had filed an original appeal along with an application No. 8293 of 2025 to condone the delay in filing the appeal against the judgement and decree made by this Court in CS.No. 49 of 2010, and the same is pending. It is submitted that without any evidence, the trial court has decreed the suit only for a sum of Rs. 3,488,304. But in reality the applicants/defendants have to pay dues to the tune of Rs.70,53,791/-.

6. On perusal of the records, it is seen that on 30.7.2021 a part decree has been passed, in respect of the admitted portion of the liability to the tune of Rs.26,58,236/-. In the said order dated 30.07.2021, the court has made the



following observation:

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"3.The defendants in this suit has laid C.S.No.787 of 2010, for return of the mortgage property and the documents, in possession of the Nidhi company. According to them, they are only liable to pay the mortgage loan to the tune of Rs.8,30,698/- with interest at 21.6% per annum, and hence, they are willing to repay Rs.26,58,236/- (i.e Principal Rs.8,30,698/- + Interest :Rs.18,27,256/-).

4.Inasmuch as the defendants have admitted their liability to the tune of Rs.26,58,236/-, this Court now passes the decree for the said sum. As to the balance claim, the dispute has to go for trial.

5.Accordingly, the suit is partly decreed insofar his claim of Rs.26,58,236/-, and as to its balance claim, the same can be adjudicated in the trial. No costs."

7. Based on that , on 01.10.2024 this court has passed a preliminary decree in [CS.No. 49/2010](#) and has made the following observation:

"3. That the defendants herein, shall be at liberty on or before the said 31st day December 2024, to pay into Court



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the said sum of Rs.34,88,304/- (Rupees Thirty Four Lakhs Eighty thousand Three Hundred and Four only)].

4. That on payment as aforesaid, the Plaintiff shall bring into Court all documents in their possession or power relating to the mortgaged property set out in the Schedule hereto and all such documents shall be delivered over to the Defendants or such person as he appoints, and the Plaintiff shall if so required reconvey or retransfer the said property free from the said mortgage, and clear of from all encumbrances created by the Plaintiff or any person claiming under him or any person under whom he claims, and thereupon the Plaintiff shall be at liberty to apply for payment out to this Court of the said sums."

8. That would show that the suit has been decreed only in pursuance to the observation made by this Court in its order dated 30.07.2021 about the admitted part of the liability to a sum of Rs.26,58,236/- along with interest of Rs.8,30,698/-. So far as the balance amount is concerned, the parties have to face the trial. It appears that even before the trial has been conducted in respect of the remaining liability, the suit has been decreed in pursuance to the calculation memo submitted by the defendant.



9. In these circumstances, the plaintiff has filed his counter, stating that the OSA has been filed challenging the judgement passed in [C.S.No.49](#) of 2010 dated 01.10.2025. From the above judgement, nothing can be understood with regard to that part of the liability which was contested by the defendants and for which they are ordered to face the trial as per the order dated 30.07.2021.

9. In view of the same, it may not be possible for this Court to pass an order to transfer the deposit made to the credit of CS No. 49/2010 to the District Revenue Officer, Chennai District, Collectorate, Chennai, or to return the direction to release the title deeds of the defendants. However, the applicants/defendants are at liberty to renew their prayer after the disposal of pending original side appeal in [OSA.SR.No.46300/2025](#). Now it is understood that the application filed to condone the delay in original side appeal has been allowed and the [OSA.SR.No.46300/2025](#) is going to be numbered soon.

In view of the same, this application is **closed**.

06-10-2025

Index:Yes/No

Speaking/Non-speaking order

Internet:Yes

Neutral Citation:Yes/No

jrs



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Dr. R.N.MANJULA J.

jrs

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