



W.P.No.43948 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.11.2025

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THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P.No.43948 of 2025

Mahalingam

... Petitioner

Vs

1. Sub Registrar,
Vilangamudi Primary Agricultural Co-operative Society,
Krishnagiri.

2. The Secretary,
Vilangamudi Primary Agricultural Co-operative Society,
Krishnagiri.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of Mandamus to direct the second respondent to issue no dues certificate and release the documents including title deeds, encumbrance certificate, patta, chitta, adangal and other documents related to our property situated in Survey No.656/2 situated at Mallikal Village, Vilangamudi Revenue Village, Pochampalli Taluk, Krishnagiri District.

For Petitioner : Mrs.G.Selvi George

For Respondents : Mr.K.Tamilvendan, GA



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ORDER

The petitioner seeks for issuance of 'No Due Certificate' and release the documents including title deeds, Encumbrance Certificate, Patta, Chitta, Adangal etc., with respect to the property situated in S.No.656/2 of Mallikal Village, Pochampalli Taluk, Krishnagiri District.

2. I heard Mrs.G.Selvi George for the petitioner and Mr.K.Tamilvendan, Government Advocate for the respondents.

3. The admitted facts are, the petitioner's father had created a mortgage in favour of the second respondent on 15.09.1960. It is a registered document bearing Document No.3061 of 1960. He had also extended the mortgage by way of another document in Document No.494 of 1964 dated 10.04.1964. All of a sudden, the petitioner's father, Mr.Mariyappan, who is the mortgagor, went missing. The petitioner alleges that they waited for a period of seven years, as required under Section 108 of the Evidence Act, 1872, and since he was not traceable or heard, they have come to a conclusion that he is no more. To this effect, the petitioner submits that he has obtained a declaration from the civil



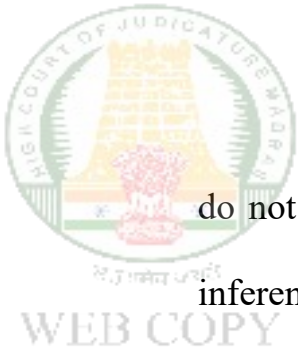
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Court stating that his father is dead, and also got the death certificate.

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4. As the mortgage still reflects in the encumbrance certificate, the petitioner and his siblings approached the second respondent for a certificate that there are 'no dues' under the mortgage. The petitioner's mother also sought information under the Right to Information Act, 2005 regarding the mortgage. The response from the second respondent being that, there was no records available with the second respondent evidencing the mortgage and therefore, it was not in a position to give the 'No Due Certificate'. Hence, this writ of mandamus for the aforesaid reliefs.

5. The prayer in the writ petition is literally in the form of a declaration that the original mortgage and further the extension thereof executed by his father Mariyappan, is no longer operable. It obviously requires oral and documentary evidence. Sitting under Article 226 of the Constitution of India, I cannot grant a declaratory relief as sought in this petition. It is for the petitioner to approach the jurisdictional civil Court and seek a declaration by lapse of time, the mortgage cannot be enforced. The advantage of the petitioner has in such a case, is to call upon the second respondent to produce the records. In case, they



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do not produce it, the petitioner can always request the Court to draw adverse inference against the second respondent. I am not inclined to do the same in a writ petition. Consequently, granting liberty to the petitioner to approach the jurisdictional civil Court and seek for appropriate reliefs, including those mentioned above, this writ petition is dismissed.

The dismissal of the writ petition will not stand in the way of the petitioner to approach the jurisdictional civil Court. No costs.

17.11.2025

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Index : Yes/No

Neutral Citation : Yes/No

To

1. Sub Registrar,
Vilangamudi Primary Agricultural Co-operative Society,
Krishnagiri.

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2. The Secretary,
Vilangamudi Primary Agricultural Co-operative Society,
Krishnagiri.

V.LAKSHMINARAYANAN, J.

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