



W.P.(MD) No.22164 of 2017

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

**W.P.(MD) No.22164 of 2017
and
W.M.P.(MD) No.18874 of 2017**

B.Kannan

... Petitioner

/vs./

- 1.The Registrar of Co-operative Societies,
Tamil Nadu Co-operative Societies, (Housing),
Office at, 2nd Floor, 48,
Rithardan Road, Veppari,
Chennai 600 007.
- 2.The Managing Director of Co-operative Societies,
(The Additional Registrar),
Tamil Nadu Co-operative Societies, (Housing),
Office at, Veppari,
Chennai 600 007.
- 3.The Secretary,
Office at A2651, Madurai Koodal Nagar,
Building of Co-operative Societies,
Plot No.30, Koodal Nagar,
Madurai 625 018.

... Respondents



W.P.(MD) No.22164 of 2017

WEB COPY

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the respondents to return the original documents mortgaged with 3rd respondent within the time fixed by this Court.

For Petitioner : Mr.A.Manikandan
For R1 : Mr.J.K.Jeyaseelan
Government Advocate
For R2 : Mr.S.Kanmani Annamalai
For R3 : No appearance

ORDER

The writ petition has been filed seeking for a direction to the respondents to return the original documents mortgaged with the third respondent.

2. The case of the petitioner is that the petitioner's father had borrowed a loan from the third respondent society, which is covered by a Group Insurance Policy taken by his father. During the pendency of the loan period, the petitioner's father died on 24.06.2008. As per the Group Insurance Policy, any amount due from the borrower, namely the father of the petitioner on the date of the death alone is liable to be paid together with any delayed interest for such payment and



W.P.(MD) No.22164 of 2017

WEB COPY

the principal dues that were available on the date of the death would be covered under the insurance policy. Thereafter, the petitioner has informed the death of his father to the third respondent society and the third respondent had directed him to pay a sum of Rs.60,550/- representing the principal amount, which has also been paid by the petitioner on 30.09.2008. Even though he was not entitled to receive the principal amount that was available on the date of death of the petitioner's father, he had made the payment, but however, the original documents have not been returned back to the petitioner.

3. On 18.04.2017 ie., after 9 years from the date of death of the petitioner's father, the first respondent issued a notice in the name of the deceased father calling upon him to pay a sum of Rs.2,98,148/-, failing which the original documents would not be released, which forced the petitioner to send a legal notice through his advocate on 08.05.2017, which has not been replied to by the respondents. Hence, the petitioner had approached this Court by filing this writ petition.



W.P.(MD) No.22164 of 2017

WEB COPY

4. Countering his arguments, Mr.J.K.Jeyaseelan, learned Government Advocate appearing on behalf of the first respondent would submit that the entire writ petition has been totally misconceived. The petitioner's father had availed a loan of Rs.1,00,000/- on 03.03.2001 and paid a sum of Rs.60,550/- till 30.09.2008. Thereafter, the loan amount has not been repaid. Hence, the demand notice had been issued. However, the petitioner had sent a legal notice.

5. He would further submit that as on 30.06.2023, the total outstanding amount comes to Rs.40,688/- together with penal interest and other miscellaneous charges. An 'One Time Settlement' scheme has been promulgated by the Government to waive the penal interest, if the petitioner comes forward to settle the amount, but he had not come forward to settle the amount and therefore, the writ petition itself cannot be maintainable. If the petitioner makes the payment, the original documents submitted by the petitioner's father would be returned.

6. Mr.Kanmani Annamalai, learned counsel for the second respondent would also adopt the arguments made by the learned Government Advocate appearing on behalf of the first respondent in that aspect.



W.P.(MD) No.22164 of 2017

WEB COPY

7. I have considered the rival submissions made by the learned counsel on either side.

8. It is an admitted case that the petitioner's father had obtained a loan and was also part of the Group Insurance Scheme. It cannot be disputed that he died on 24.06.2008, which is also evident from the death certificate issued in that regard by the Register of Birth and Deaths. The petitioner had been called upon to make good the payment of Rs.60,550/- ie., after the death of the petitioner's father from the petitioner on 30.09.2008, which, according to the petitioner, had represented the balance principal amount payable by the petitioner's father. When the loan of the petitioner's father had been covered under the Group Insurance Scheme, on the death of the borrower whatever due that was payable by the borrower was only payable by his legal heirs and the remaining amount would be covered by the insurance scheme. This has been clearly overlooked by the respondents. It has also not been disputed that after the death of the petitioner's father, the petitioner had made the payment as evidenced the receipt issued by the third respondent on 13.09.2008. The same could only represent the outstanding due as on the date of the death of the petitioner's father.



W.P.(MD) No.22164 of 2017

WEB COPY

9. In such event, I am of the view that the loan taken by the petitioner's father stood discharged and they cannot be mulcted with the liability to make the payment as claimed by the respondents 1 and 2. In such view of the matter, there shall be a direction to the respondents 1 and 2 to return the original documents that were deposited by the petitioner's father for the grant of loan in the year 2001 within a period of four weeks from the date of receipt of a copy of this order.

10. In fine, the Writ Petition stands allowed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petition is also closed.

Index : Yes / No
Internet : Yes / No
mm

21.01.2025

To

The Registrar of Co-operative Societies,
Tamil Nadu Co-operative Societies, (Housing),
Office at, 2nd Floor, 48,
Rithardan Road, Veppari,
Chennai 600 007.

6/7



WEB COPY



W.P.(MD) No.22164 of 2017

K.KUMARESH BABU, J.

mm

W.P.(MD) No.22164 of 2017

21.01.2025