



WEB COPY



W.P. No. 7064 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2026

CORAM

THE HON'BLE Mr. JUSTICE V.LAKSHMINARAYANAN

W.P. No. 7064 of 2026

A.Kuppusamy

...Petitioner

Vs.

1. The Registrar,
Cooperative Housing Society,
Richardson Road,
Chennai – 600 007.
2. The Deputy Registrar,
Fairlands Cooperative Housing Society,
Ramakrishna Road,
Salem – 600 015.
3. The Secretary/Incharge,
Elavamalai Cooperative Building Society,
Kalingarayan Palayam Pudur,
Bhavani, Erode District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 3rd Respondent to return my house property original documents, as per the letter dated 24.2.2025.

For Petitioner : Mr.V.Udaya Kumar

For Respondents : Mr.V.Umakantha,
Government Advocate

ORDER

Heard Ms. Muthumari for M/s. V.Udaya Kumar for the petitioner and Mr.V.Umakanth for the respondents.



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2. The following facts are not in dispute:-

The writ petitioner is a member of the 3rd respondent society. His membership number is 5487. He took up the membership in the year 2019. Soon thereafter, he applied for and obtained a mortgage loan from the 3rd respondent on 29.10.2019. The property mortgaged is situated in 35/E Somasundarapuram, Bhavani Town, Erode District. The mortgage was registered with sub-registrar at Bhavani in Document No. 5939 on 29.10.2019.

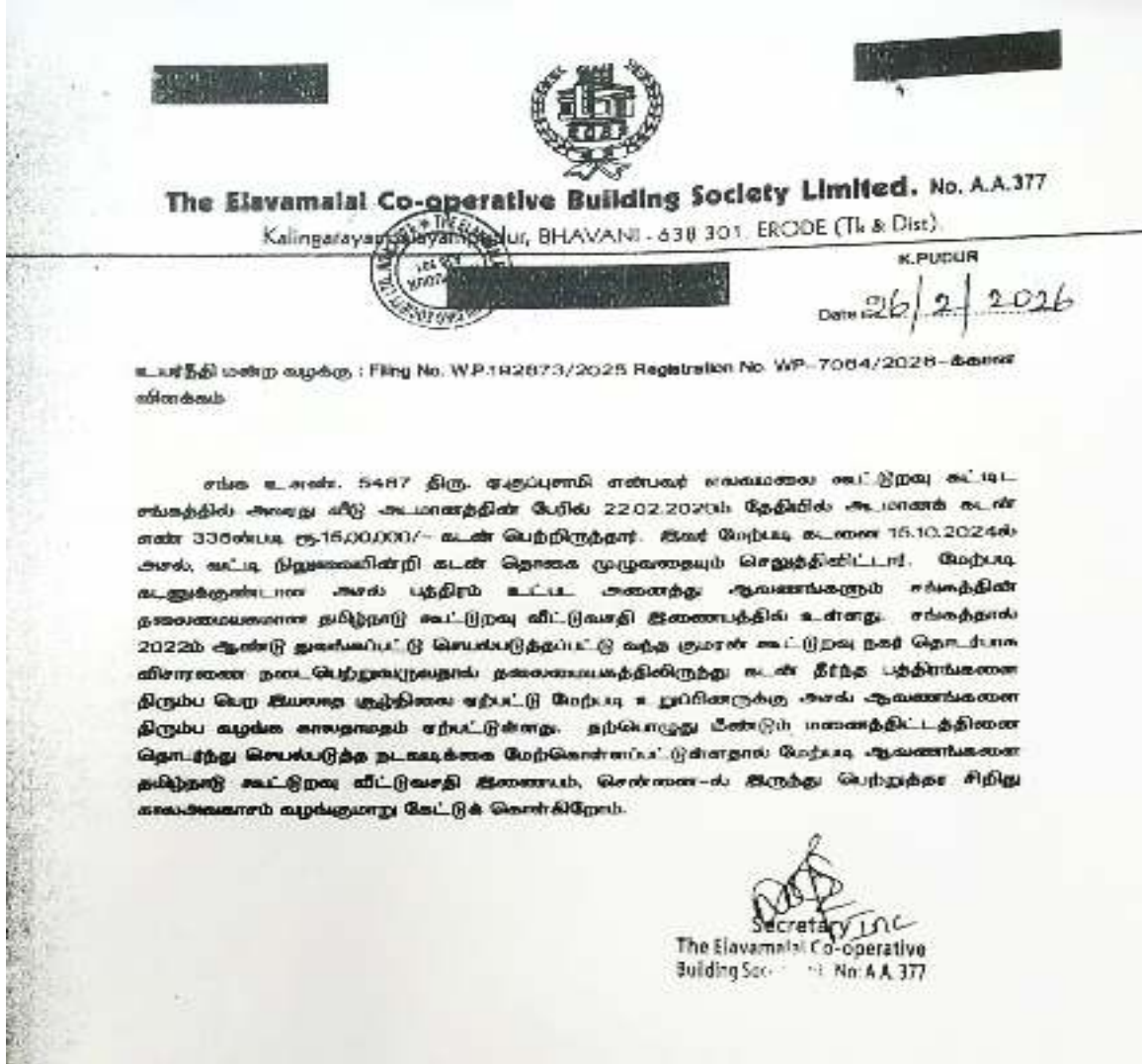
3. The petitioner was regularly servicing the loan. He repaid the entire mortgage amount together with interest on 15.10.2024. The 3rd respondent society also issued a 'no dues' certificate to the petitioner certifying that the mortgage had been discharged and no amounts are due under the said mortgage.

4. The petitioner, having redeemed the mortgage, sought return of the documents. The documents were not returned. Hence, he issued a notice through a lawyer calling upon the 3rd respondent to return the documents. The 3rd respondent replied that the documents were available with the 1st respondent and hence, the 3rd respondent is not in a position to return the same. Aggrieved by the inaction of the 3rd respondent in returning the documents, the petitioner is before this Court.



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5. When the matter was taken up in the morning, Mr.V.Umakanth produced the following instructions. For reference, the same is scanned and extracted hereunder:



6. I pointed out to Mr.V.Umakanth that the relationship between the petitioner and the 3rd respondent is that of a mortgagor and a mortgagee and that the documents had been handed over to the mortgagee as security for the loan



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that the mortgagor had taken. Once the security had been discharged in full, as is cleared by the certification given by the 3rd respondent, it is the duty of the 3rd respondent to ensure that the documents are returned to the petitioner immediately. Mr. V.Umakanth sought time to get further instructions from the 3rd respondent.

7. Post lunch, he produced the following instructions. For reference, the same is scanned and extracted hereunder:

Regist : 16.03.1982
Open : 31.03.1982

Phone No. : 0424 - 2236788

The Elayamal Co-operative Building Society Limited. No. A.A.377
Kannagarayanpalayampudur, BHAVANI - 638 301. ERODE (Tk & Dist).

A.Sakthivel Kannagarethnam, B.Sc, B.A, B.Com
Secretary

Date 26/2/26

உயர்நீதி மன்ற வழக்கு : Filing No. W.P.192873/2025 Registration No. WP-7064/2026-கனக
சபை

சங்க உரை: 5487 திரு. ஏனாப்புகழி எல்பாள் கனகமலை கூட்டுறவு கட்டிட சங்கத்தில் சிலசது வீடு அடமானத்தின் பேரில் 22.02.2020ம் தேதியில் அடமானக் கடன் உரை 333500/- ரூ.15,00,000/- கடன் பெற்றிருந்தார். இவர் மேற்படி கடனை 15.10.2024ல் அசல் கட்டி திருப்புகழி கட்டி தொகை முழுமையாகச் செலுத்தினார். சங்கம் உறுப்பினர்களிடமிருந்து பெறும் கடன்மீதுகளைக் கிணையத்திற்கு அனுப்பி சங்கத்தின் பெயரில் கடன் சென்று உறுப்பினர்களுக்கு கடன் வழங்குவதும், உறுப்பினர் கடனை முழுமையாகச் செலுத்தும் பொழுது கிணையத்திற்கு செலுத்தி உறுப்பினரின் அசல் ஆவணங்களை திரும்ப சென்றுத் தருவதுமே நடைமுறை ஆகும். அந்நேரம் மேற்படி கடனுக்குண்டான அசல் பத்திரம் உட்பட அனைத்து ஆவணங்களும் சங்கத்தில் தலைமையகமான தமிழ்நாடு கூட்டுறவு வீட்டுவசதி கிணையத்தில் உள்ளது. சங்கத்தால் 2022ம் ஆண்டு துவங்கப்பட்டு செயல்படுத்தப்பட்டு வந்த குடிசை கூட்டுறவு நகர் தொடர்பாக விசாரணை தடைபெற்று வருவதால் தலைமையகத்திலிருந்து கடன் தீர்ந்த பத்திரங்களை திரும்ப பெற சிலசது முயற்சியை ஏற்பட்டு மேற்படி உறுப்பினர்களுக்கு அசல் ஆவணங்களை திரும்ப வழங்க காலதாமதம் ஏற்பட்டுள்ளது. தற்பொழுது மீண்டும் மனைத்திட்டத்தினை தொடர்ந்து செயல்படுத்த நடவடிக்கை மேற்கொள்ளப்பட்டுள்ளதால் மேற்படி ஆவணங்களை தமிழ்நாடு கூட்டுறவு வீட்டுவசதி கிணையம், சென்னை-ல் இருந்து பெற்றுத்தருவதற்கு 12 காலம் காலஅனுமதி வழங்குமாறு கேட்டுக் கொள்கிறேன்.

Secretary
The Elayamal Co-operative Building Society Ltd, No: A.A. 377



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A perusal of both the instructions made it clear that the 3rd respondent without the authorization of the writ petitioner, had handed over the documents to the 1st respondent. No records have been produced before this Court to show that the petitioner had acceded to disposition. The act of the 3rd respondent/mortgagee in handing over the documents to the 1st respondent cannot be termed as illegal. The 3rd respondent would be entitled to retain the documents even if one paisa of the mortgage amount, had not been paid. Having certified that the entire amounts were paid on 15.10.2024, the 3rd respondent ought to have returned the documents on that very day or soon thereafter.

8. When these points were put to Mr.V.Umakanth, he states though the 3rd respondent has sought twelve weeks time to return the documents, within a period of four weeks from today, i.e., on or before 26th of March 2026, the documents would be personally handed over to the writ petitioner. The statement given by Mr.V.Umakanth that the documents would be returned by the 3rd respondent within four weeks is received as an undertaking given by the 3rd respondent to this Court. In case the 3rd respondent does not comply with the undertaking, it is open to the petitioner to take such proceedings as is open to him.

9. The petitioner on the documents being returned by the 3rd respondent,



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shall duly acknowledge the receipt of the same. The mortgage cancellation deed, if any, would also be registered forthwith.

10. I wanted to impose costs on the 3rd respondent for detaining the documents unauthorizedly for over a period of two years. Since Mr.V.Umakanth was able to convince this Court that the documents would be returned within a period of four weeks, this Court defers from issuing costs.

11. The writ petition is ordered. Costs deferred.

26.02.2026

Index : Yes/No

Speaking or Non-speaking order

Maya

To

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V.LAKSHMINARAYANAN, J.

Maya

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