

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

FRIDAY, THE 18TH DAY OF NOVEMBER 2016/27TH KARTHIKA, 1938

WP(C).No. 28513 of 2016 (L)

PETITIONER(S)/PETITIONERS:

1. PATHUKUNJU CHAMPLACKAL, W/O. SAINUDEEN,
EDAKUNNAM, KANJIRAPILLY, KOTTAYAM DISTRICT.
2. AJI CHERIAN PUTHENPURACKAL,
S/O. CHERIAN, KANGAZHA, CHANGANASSERY.
3. THOMAS MARUTHIKUZHAYIL,
S/O. OUSEPH, MARUTHIKUZHAYIL HOUSE, KAPPADU,
KANJIRAPILLY, KOTTAYAM DISTRICT.
4. CHINNAMMA KOTTARATHIL,
W/O. THANKAPPAN, KOOTTICKAL, KANJIRAPPILLY, KOTTAYAM.
5. THOMAS THOTTUPURATH,
S/O. ULAHANNAN, THOTTUPURATHU HOUSE, ERUMELY,
KOTTAYAM DISTRICT.
6. P.A. JOSE PUTHENPARAMPIL,
VELICKAKATHU, S/O. ANTONY, KOOTTICKAL, KANJIRAPALLY.
7. K.G. NARAYANANKUTTY KOTTUKUNR,
S/O. GOVINDAN, MUNDAKAYAM, KANJIRAPALLY, KOTTAYAM DISTRICT.
8. K.T. ABRAHAM KALAPURACKAL,
S/O. THOMAS, MUKKADA, KANJIRAPALLY, KOTTAYAM DISTRICT.
9. KAMALAHASSAN PUTHENPURACKAL,
S/O. PADMANABHAR, ERUMELY, KANJIRAPALLY.
10. PONNAMMA PUTHUKATTIL,
S/O. D/O. RAGHAVAN, KOOVAPALLY, KANJIRAPALLY.

BY ADV. SMT. JISHAMOL CLEETUS

RESPONDENT(S)/RESPONDENTS:

1. THE HOUSING AND URBAN DEVELOPMENT CORPORATION (HUDCO),
3RD FLOOR, SAPHALYAM COMPLEX, PALAYAM,
TRIVANDRUM-34, REPRESENTED BY ITS REGIONAL MANAGER.
PIN 695 034

WP(C).No. 28513 of 2016 (L)

2. THE SOCIETY FOR INTEGRAL DEVELOPMENT ACTION (SIDA),
REG NO.K.29/84,
KOOVAPPALLY.P.O,-686518,KOTTAYAM,
REPRESENTED BY ITS GENERAL DIRECTOR.

R1 BY SRI.C.R.SYAMKUMAR, SC
R2 BY SRI.SUNIL JACOB JOSE,SC

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON
18-11-2016, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER(S)' EXHIBITS

- EXHIBIT P1 TRUE COPY OF THE CERTIFICATE ISSUED TO 1ST PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P2 TRUE COPY OF THE CERTIFICATE ISSUED TO 2ND PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P3 TRUE COPY OF THE CERTIFICATE ISSUED TO 3RD PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P4 TRUE COPY OF THE CERTIFICATE ISSUED TO 4TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P5 TRUE COPY OF THE CERTIFICATE ISSUED TO 5TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P6 TRUE COPY OF THE CERTIFICATE ISSUED TO 6TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P7 TRUE COPY OF THE CERTIFICATE ISSUED TO 7TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P8 TRUE COPY OF THE CERTIFICATE ISSUED TO 8TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P9 TRUE COPY OF THE CERTIFICATE ISSUED TO 9TH PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P10 TRUE COPY OF THE CERTIFICATE ISSUED TO 10 PETITIONER BY THE 2ND RESPONDENT
- EXHIBIT P11 TRUE COPY OF THE JUDGMENT IN WP.NO.9255/15.

RESPONDENT(S)' EXHIBITS: NIL

//TRUE COPY//

P.A. TO JUDGE

dlk

SHAJI P. CHALY, J.

W.P.(C) No.28513 of 2016

Dated this the 18th day of November, 2016

JUDGMENT

Petitioners have availed loans by depositing their title deeds as collateral security, from the second respondent. According to petitioner, the entire loan amounts are paid back to the second respondent. However, the mortgaged documents are not released. It is in this background petitioners have approached this Court by filing this writ petition.

2. Heard learned counsel for the petitioners, respective Standing Counsel for the respondents and perused the documents on record and pleadings put forth.

3. So far as the payment made by the petitioners to the second respondent, is not disputed by the second respondent. According to the second respondent, on repayment of the entire loan outstanding necessary acknowledgement is issued by the second respondent to the petitioners. It is also stated that, second respondent is availing loan from the first respondent and the documents

secured by the second respondent from the loanees are deposited with the first respondent. According to the learned counsel for the first respondent substantial amounts are remaining due from the second respondent to the first respondent and it is in the said background only the commotion now pointed by the petitioners have occurred.

4. Taking note of the respective submission made across the Bar I am of the considered opinion that so far as the contract by and between the petitioner and the second respondent is concerned, it is concluded by making the repayments to the satisfaction of the second respondent. Therefore, the second respondent is not at liberty to retain any title deeds deposited by the petitioners. However, the fact remains, on the basis of the agreement by and between the first and second respondent, title documents are deposited with the first respondent. But viewed in any manner, and under any circumstances, petitioners are innocent and they are entitled to get the title deeds back, as soon as their contract is complete with the second

respondent.

5. The contention advanced by the learned counsel for the first respondent is that, substantial amounts are due and disputes are pending and therefore, the first respondent should be satisfied, that the transaction by and between the petitioners and the second respondent has been bonafidely concluded and therefore sufficient precautionary measures shall be made by this Court while directing to release the title documents to the petitioners. I find force in the said contention. If the petitioners approach the bank for securing necessary acknowledgement with respect to the repayment of the loan, same shall be issued by the second respondent by making necessary endorsement, and affixing signature and seal of the competent officer, and the society. Petitioners shall also produce sufficient identity documents enabling the first respondent to identify the loanees, who are petitioners in this writ petition. If such a course of action is adopted by the petitioners, then the first respondent shall without any further delay, release the documents to the

petitioners, and at any rate, within two weeks from the production of such documents before the first respondent.

Writ petition is disposed of accordingly.

Sd/-

SHAJI P. CHALY, JUDGE

dlk/18/11/