IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20187 of 2015
And
M.P.No.1 of 2015

D.L.Rajeswaran ... Petitioner

Vs.

1 Union Bank of India
Represented by its Chairman & M.D.
Central Office
Union Bank Bhavan 239 Vidan Bhavan Marg
Nariman Point Mumbai-400 021.

2 Union Bank of India
Represented by Regional Manager
Regional Officeer
72 P.T.Rajan Road Bibikulam
Madurai-625 002.

3 Union Bank of India
Myladuthurai Branch Repd. by its Branch
Manager 1 J.Plaza
Door No.125 No.2 Road
Myladuthurai-609 001
Nagapattinam District. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to return the original title deeds bearing Document Nos.2302/2008 2333/2008 and 2334/2008 standing in the name of the petitioner and document No.1945/2008 standing in the name of the wife of the petitioner to the petitioner.

For Petitioner : Mr.A.Muthukumar
For Respondents : No Appearance

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner claims that he is First Class Contractor for Highways, DRDA and Municipalities and was having Savings Bank Account as well as Current Account in the first respondent Bank at Myladuthurai branch namely, the third respondent. The current account had Over Draft facilities i.e., loan account no.10008 and after computerization, it was renumbered as SOD 28022 and the upper limit for Over Draft facility was enhanced from time to time. The petitioner had to furnish security for the Over Draft facilities and accordingly created equitable mortgages in favour of the Bank by depositing 14 documents on various dates towards security for due repayment of the Over Draft facilities.

3.The petitioner having found that the services rendered by the third respondent are poor, decided to change the Bank and accordingly approached the State Bank of India Myladuthurai for Over Draft facility and for that purpose, he cleared the entire amount due and payable to the third respondent on 02.03.2015 through the State Bank of India Myladuthurai branch and once the loan is cleared, the third respondent is bound to cancel the equitable mortgage and return the documents which was given by way of security and however, they have not chosen to return the documents to the petitioner. The petitioner in this regard submitted a representation dated 06.04.2015 with copies marked to the Directorate of Public Grievances, Government of India, Cabinet Secretarist, Sansad Marg, New Delhi, The Chief Manager, The Banking Ombudsman, RBI, Chennai as well as to the second respondent and he has also given a complaint to the Jurisdictional police and since no response is forthcoming from anyone of the authorities, came forward to file this writ petition.

4.Mr.A.Muthukumar, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed set of documents and would submit that once the loan amount is cleared by the petitioner, the third respondent is under obligation to return the documents, given to them by way of security in the form of equitable mortgage and for the reason best known to them, they are deliberately avoiding the return of the documents and hence prays for appropriate orders.

5.This Court has perused the typed set of documents also. Perusal of the typed set of documents would disclose that the third respondent has sent a communication in Ref:BM:CRLD:36 dated 15.05.2015 stating that the documents relating to five properties were not released as they are not available and would further state that the competent authority has approved to issue certified copies in the place of missed documents along with the Bank's Certificate mentioning the reason and prayed for time to furnish the same.

6.This Court taking into consideration, the above facts and circumstances established in the letter dated 15.05.2015 is of the view that some responsibility has to be fixed as to the missing of the documents which were submitted to the third respondent Bank in the form of security. It is also to be noted at this juncture that the missing of the original documents, may have a repurcussion in the event of the petitioner furnishing the said property by way of security or alienating the same.

7.This Court taking into consideration, the above facts and circumstances permits the petitioner to submit a fresh representation to the first respondent along with a copy of this order and other relevant documents within a period of two weeks from the date of receipt of a copy of this order and the first respondent on receipt of the same is directed to consider and pass orders within a period of six weeks thereafter and communicate the decision taken, to the petitioner.

8.The writ petition is disposed of accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

pri

To

1 Union Bank of India
Represented by its Chairman & M.D.
Central Office
Union Bank Bhavan 239 Vidan Bhavan Marg
Nariman Point Mumbai-400 021.

2 Union Bank of India
Represented by Regional Manager
Regional Officeer
72 P.T.Rajan Road Bibikulam
Madurai-625 002.

3 Union Bank of India
Myladuthurai Branch Repd. by its Branch
Manager 1 J.Plaza Door No.125 No.2 Road
Myladuthurai-609 001 Nagapattinam District.

+1 CC to M/s. A. Muthukumar, Advocate (34154)

W.P.No.20187 of 2015
And
M.P.No.1 of 2015

PPA(CO)
KRA(23/07)

08.07.2015