BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 24.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.15849 of 2016

A.Selva Kumar ... Petitioner

Vs.

1. The Regional Manager,
   Canara Bank,
   St.Marys Compound,
   East Veli Street,
   Madurai 625 001.

2. The Branch Manager,
   Canara Bank,
   Mangulam Branch,
   Madurai District - 625 301 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents to release the Petitioner's documents deposited with Bank by way of Memorandum of Deposit of Title Deeds given as collateral security for the loan availed in Ac.No.1842881006798 from the 2nd Respondent Bank.

For Petitioner : Mr.Thangapandi
For Respondents : Mr.Pala Ramasamy

ORDER

Heard both sides.

2.By consent, the main Writ Petition itself is taken up for final disposal.

3. No counter is filed on behalf of the Respondents.

4. According to the Petitioner, his brother A.Malaisamy had borrowed a Term Loan of Rs.8,50,000/-, from the Second Respondent / Branch Manager, Canara Bank, Mangulam Branch, Madurai District, for the purpose of purchasing Harvesting Machine, for his agricultural needs / requirement, on 28.07.2005. In fact, he stood as the guarantor for the credit facility availed by his brother from the Second Respondent Bank. Also, he had deposited his Title Deeds and

the 'Memorandum of Deposit of Title Deeds' was executed in favour of the Respondent / Bank, in regard to the credit facility availed by his brother.

5. It comes to be known that the Title Deeds of the properties, Patta of the Properties, situated in S.Nos.530/E/2, 530/4, 530/7, 532/3, 532/4, 532/5, 532/6, 532/10A, 532/16A, 532/16B, 534/8, 535/3, 535/5, 530/3C, 553/2 and 817/1C1A, measuring an extent of 5.03 Acres land at Mangulam, Madurai District, were deposited with the Respondents Bank.

6. The Principal stand taken on behalf of the Petitioner is that he had repaid the entire loan amount and there are no dues pending in the Loan Account in question. Further, his frequent visit and continuous representations through letter, dated 26.08.2014, had met with a reply from the Second Respondent / Bank to the effect that 'Loan Account was closed on 06.08.2011 and they would release the Title Deeds, deposited by him within few days'.

7. The clear-cut argument advanced on behalf of the Petitioner before this Court is that the Petitioner had not borrowed any other loan than the loan, which was taken by his brother and also the same was subsequently repaid. After the communication of the Bank, dated 26.06.2014, to the effect which runs as follows:-

> “The Respondent Bank had not taken any effective steps to release his Title Deeds in question. Hence, he has filed the present Writ Petition before this Court.”.

8. Considering the fact that the Petitioner in the present Writ Petition has taken a primordial stand that his Loan Account No.1842881006798 was closed on 06.08.2011 and even the Second Respondent / Bank in its reply, dated 26.06.2014, had clearly mentioned that 'As on date, there is no direct liability in your name (Petitioner's name)' and also this Court, taking note of the entire conspectus of the attendant facts and circumstances of the present case in an encircling fashion, comes to a consequent conclusion that the Respondents are to consider the plea of the Petitioner in seeking release of documents, deposited with it, by means of 'Memorandum of Title Deeds', (given as collateral security for the loan availed in Ac.No.1842881006798, from the Second Respondent / Bank, within a period of three weeks from the date of receipt of a copy of this order. If the Second Respondent / Bank comes to an emphatic conclusion that the Loan Account No.1842881006798, is closed and there is no amount outstanding, as on date, then, this Court directs the Second Respondent / Bank to return the 'Memorandum of Title Deeds', obtained from the Petitioner, as collateral security, for the aforesaid loan in question, within the aforesaid period of three weeks, as mentioned supra.

9. Before arriving at a conclusion or taking a decision, the Second Respondent / Bank is directed to provide adequate opportunity to the Petitioner / guarantor for the Loan and to take a final call / decision in the subject matter in issue, within the time specified by this Court, as aforestated. Before parting with the case, this Court abundantly makes it quite clear that the Respondent / Bank, as a mortgagee, soon after the mortgaged amount is cleared either by the principal mortgager or by the surety, and as on date, when no amount is due under a particular loan account, then, it is the primary duty of the Second Respondent / Bank, as a mortgagee, to return the Title Deeds of the Petitioner / person and it cannot retain the said Title Deeds even for a Minute / Second, in the eye of Law.

10. With the aforesaid observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar

To

1. The Regional Manager,
   Canara Bank,
   St.Marys Compound,
   East Veli Street,
   Madurai 625 001.

2. The Branch Manager,
   Canara Bank,
   Mangulam Branch,
   Madurai District – 625 301

+ 1 CC TO MR.PALARAMASAMY, ADVOCATE IN SR No. 47513

MPK
TE/PV : 15/09/2016 : 3P/4C

W.P(MD)No.15849 of 2016
24.08.2016