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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) No.11634/2015
M.L. GUPTA AND ANR Petitioners
Through: Mr. D.K. Rustagi, Adv.

Versus

STANDARD CHARTERED BANK AND ORS Respondents
Through: Mr. Sumit Bansal, Ms. Richa Oberoi
and Mr. A.P.S. Sehgal, Advs. for R-1.
Mr. J.L. Joel, Adv. with Mr. Sarabjeet
and Mr. Surender Manral, ARs.
Mr. K.S. Parihar and Mr. H.S.
Parihar, Advs. for RBI.
Mr. Roshan Lal Goel with Mr.
Kavindra Gill, Advs. for R-3&4
Mr. Kamal Nijhawan, Sr. Standing
Counsel with Mr. Sumit Gaur, Adv.
for R-6.

CORAM:
HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

ORDER
% **18.05.2016**

1. The grievance of the petitioners is that though they have transferred the loan facility earlier availed by them from the respondent no.1 Standard Chartered Bank (SCB) to the respondent no.2 Cholamandalam Investment and Finance Company Limited (Cholamandalam) but the respondent no.1 SCB is not releasing/transferring the title deeds of the property of the petitioners deposited with them to secure the loan availed and owing whereunto the petitioners continue to be liable to pay a higher rate of interest to the respondent no.1 SCB than they would be required to pay to the respondent no.2 Cholamandalam.

2. The petition was entertained.
3. On 21st January, 2016 the counsel for the respondent no.1 SCB stated that the only impediment to release/transfer the said title deeds was the letter dated 29th January, 2014 of the Deputy Commissioner (Recovery Cell) of the Office of the Commission of Customs directing the respondent no.1 SCB to not release the said deeds to the petitioners.
4. In this view of the matter, the Customs Department was on 21st January, 2016 impleaded as respondent no.6.
5. The counsel for the respondent no.6 Customs Department has since filed his counter affidavit and today states that the Department has issued notices in accordance with law for attachment of the property of which title deeds are lying with the respondent no.1 SCB and thus the property stands attached. It is further stated that the petitioner could not even have mortgaged the same with the respondent no.1 SCB.
6. The counsel for the respondent no.2 Cholamandalam states that though earlier his clients were not willing to afford the financial assistance to the petitioners on the security of the title deeds of the subject property on which the Customs Department had a claim, but are now agreeable therefor and are further agreeable that they shall hold the said title deeds subject to the Customs Department having a first charge/claim thereon and will not handover the same to the petitioners or to any other person without either an order of the appropriate Court/fora in a proceeding to which Customs Department is a party, permitting them to do so or no objection in writing of the Customs Department.

7. The counsel for the respondent no.1 SCB has no objection to the title deeds being so transferred to the respondent no.2 Chola mandalam.

8. The counsel for the petitioners contends that the attachment purportedly effected by the Customs Department is illegal and he will be taking appropriate steps in that regard. He further states that the petitioners reserve their right to take appropriate remedies against the respondent no.1 SCB for the losses occasioned to the petitioners.

9. In this view of the matter, it is not deemed appropriate to keep the petition pending. The petition is disposed of with the following directions:-

- (i) The respondent no.1 SCB to on or before 26th May, 2016 transfer / handover the title deeds of property no.E-134, Kamla Nagar, Delhi of the petitioners to the respondent no.2 Chola mandalam, 6, Pusa Road, 2nd Floor, Karol Bagh, New Delhi – 110 005.
- (ii) The respondent no.2 Chola mandalam to retain the said title deeds in terms of above.

10. It is clarified that the said transfer of title deeds from the respondent no.1 SCB to the respondent no.2 Chola mandalam will not affect the rights of the Customs Department in any manner whatsoever and the petitioners shall have remedies as aforesaid in accordance with law.

No costs.

RAJIV SAHAI ENDLAW, J.

MAY 18, 2016

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