

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2017

CORAM

The Hon'ble Mr.JUSTICE C.T.Selvam

W.P.No.9222 of 2017

and

W.M.P.No.10151 of 2017

S.Balasubramanian

..Petitioner

Vs.

1. The Commissioner of Police,
Commissioner's Office Building,
Vepery, Chennai - 600 007.
2. The Deputy Commissioner of Police,
Mylapore District,
Kutchery Road,
Chennai - 600 004.
3. The Manager,
ICICI Bank,
Thousand Lights Branch,
Chennai - 600 006.
4. S.Arumugam

...Respondents

Writ Petition, filed under Article 226 of the Constitution of India, praying for issuance of a writ of mandamus, to direct the respondents 1 and 2 herein to forthwith register the complaint, dated 01.04.2017, lodged with them by the petitioner against the third respondent/Bank and to take action in accordance with law, and to direct the third respondent/Bank to release the Cheques bearing No.689170, dated 28.02.2017, for Rs.1,79,92,062/-, (Rupees one Crore seventy nine lakhs ninety two thousand and sixty two only) and bearing No.689171, dated 28.02.2017, for Rs.1,79,92,063/-. Rupees one Crore seventy nine lakhs ninety two thousand and sixty three only)

For Petitioner : Mr.AR.L.Sundaresan, Senior Counsel
for M/s.AL.Gandhimathi
For Respondents: Mr.K.Balamurugan,
Government Advocate [R1 & R2]
Mr.P.L.Narayanan [R3]
Mr.S.P.Arthi [R4]

O R D E R

Petitioner seeks issuance of a writ of mandamus directing respondents 1 and 2 herein to forthwith register the complaint of the petitioner against the third respondent/Bank, dated 01.04.2017 and to take action, in accordance with law, and also, to direct the third respondent/Bank to release the cheques bearing Nos.689170 dated 28.02.2017 for Rs.1,79,92,062/- and 689171 dated 28.02.2017 for Rs.1,79,92,063/-.

2. The grievance of the petitioner is that he had effected sale of property belonging to his principals under a deed dated 06.03.2017 registered as Document No.439 of 2017. The purchaser was the fourth respondent. Part of the sale consideration in a sum of Rs.3,59,84,125/- was reflected in the very sale deed as under cheques issued by third respondent bearing Nos.689170, dated 28.02.2017 for Rs.1,79,92,062/- and No.689171 dated 28.02.2017 for Rs.1,79,92,063/-.

3. The third respondent had, at the time of registration of the sale deed, taken the cheques under the pretext that certain bank formalities were pending there regards and upon completion thereof, the same would be handed over to petitioner. As the third respondent has not done so, petitioner has moved the present writ petition.

4. Heard learned counsel for petitioner, learned Government Advocate for respondents 1 and 2, learned counsel for third respondent bank and learned counsel for fourth respondent.

5. When the matter was taken up for further hearing today, learned counsel for third respondent bank submitted that a proposal of his clients that additional security in respect of the loan availed by fourth respondent be provided whereupon the banker's cheques would be released to petitioner had gained acceptance. Such additional security would be held by the bank, till such time the issue between the petitioner and a third party, who informed of being a prior agreement holder in respect of the property and who had advanced a sum of Rs.25,00,000/- be sorted out.

6. In the light of the above submissions, this Court directs as follows:

- (i) ***Upon the fourth respondent producing documents relating to the additional security of property belonging to him or others as third party security, be it commercial or residential, the third respondent bank shall satisfy itself on the title to the property as also its value within a period of seven days from the date of receipt of this order.** Upon such satisfaction, the third respondent bank shall hand over cheques bearing Nos.689170, dated 28.02.2017, for Rs.1,79,92,062/-, and 689171, dated 28.02.2017, for Rs.1,79,92,063/- to the petitioner.
- (ii) The Sub Registrar, Joint II, Saidapet, is directed to release the sale deed registered as document No.439 of 2017, dated 06.03.2017 and the mortgage deed, registered as Document No.440 of 2017, dated 10.03.2017, to the third respondent Bank. As agreed to between parties, the third respondent bank will be upon a duty and is directed to release the additional security to be presently offered by fourth respondent immediately upon issues between petitioner and third party agreement holder Mr.P.S.Srinivasan being sorted out.

The Writ Petition is disposed of with the above terms. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

***corrected as per order
of this court dt.28/04/17 and made
herein**

sd/-
Assistant Registrar (CS IV)

Sd/-
Assistant Registrar (CS IV)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sd/gm

To

1. The Commissioner of Police,
Commissioner's Office Building,
Vepery, Chennai - 600 007.
2. The Deputy Commissioner of Police,
Mylapore District,
Kutchery Road,
Chennai - 600 004.

To be substituted to
the order already
despatched on 27/4/17

3 The Sub Registrar
Joint II, Saidapet

+1cc to Mr.AL. Gandhimathi, Advocate, S.R.No.***26312**
+1cc to Mr.PL. Narayanan, Advocate, S.R.No.***26342**

scd(CO)
md(26/04/2017)
ss(28/4/2017)

W.P.No.9222 of 2017



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