

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.08.2017

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.14089 of 2015

Arudhra Alloys Pvt. Ltd.
rep. by its Managing Director,
K.Sekar ... Petitioner

vs.

Indian Overseas Bank,
763, Anna Salai,
Chennai - 600 002 ... Respondent

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of mandamus, to direct the respondent to release the documents relating to the property situated at S.No.175/3B2, 175/1J, Plot No.7, 23 & 24, Alamelu Mangapuram Village, Eriyur Vellore Taluk in terms of the one time Settlement 26.11.2012, act in terms of the settlement.

For Petitioner : Ms.Vishalini Raju
for Mr.V.Raghavachari

For Respondent : Mr.F.B.Benjamin George

ORDER

(Order of the Court was delivered by S.MANIKUMAR, J)

Borrower has sought for a writ of mandamus directing the Indian Overseas Bank, Chennai, to release the documents relating to the property situated at S.No.175/3B2, 175/1J, Plot No.7, 23 & 24, Alamelu Mangapuram Village, Eriyur Vellore Taluk in terms of the one time Settlement dated 26.11.2012, and to act in terms of the settlement.

2. Supporting the prayer sought for, borrower has contended that a loan for Rs.10 Crores was availed from the bank. Repayment could not be made in time. However, after negotiation, one time settlement was arrived at. Terms of the one time settlement, dictate that encumbrance over the mortgage property

would be released on payment of Rs.7.5 Crores within 15 days from the date of acceptance of one time settlement.

3. Writ petitioner has further contended that one time proposal was accepted on 26.11.2012 and payment was made on 30.11.2012. Petitioner has further contended that bank refused to discharge the equitable mortgage relating to the property, at Vellore. One time settlement, was cancelled on 23.04.2014, on the ground that the period of repayment has lapsed. Contending inter alia that the respondent has failed to discharge the obligations and cancelled the one time settlement, without any rhyme or reason, mandamus, as stated supra, is sought for.

4. Record of proceedings shows that on 27.07.2016, in W.P.No.14089 of 2015, this Court, passed the following orders.

"2. It transpires from the arguments made on either side that the petitioner has already paid Rs.7.5 Crores to the respondent bank and in respect of the balance amount, some properties were lying with the respondent bank for security, out of which, a property situated at S.No.175/3B2, 1J, Plot No.7, 23 & 24, Alamelu Mangapuram Village, Eriyur, Vellore Taluk is sought to be released for the purpose of satisfying the balance amount, for which, the respondent bank raised serious objection. According to the petitioner, the balance amount due is Rs.1.55 Crores, which is disputed by the respondent.

3. In view of the above, we direct the respondent bank to release the said property. Thereafter, the petitioner is directed to sell the same, in the present of the representative of the respondent bank, so that, the purchaser of the property would directly hand over the cheque / Demand Draft to the respondent bank on behalf of the petitioner to the extent of balance amount due and the excess amount, out of such sale consideration, would be payable to the Vendor.

List on 11.08.2016 for reporting compliance."

5. Record of proceedings further shows that on request, the matter has been adjourned on several occasions and on 08.07.2017 a detailed counter affidavit has been filed by the respondent.

6. On this day, when the matter came up for further hearing, representing the learned counsel on record, Ms.Vishalini Raju, learned counsel submitted that the order dated 27.07.2016, could not be complied with i.e, a sum of Rs.1.55 Crore has not been remitted.

7. From the above, it could be seen that for the purpose of release of the secured properties, even as per the version of the writ petitioner, a sum of Rs.1.55 Crores was due to

respondent bank and despite indulgence of this Court, the said amount has not been remitted.

8. In the abovesaid circumstances, prayer for issuance of mandamus to release the documents relating to the property mortgaged, cannot be granted. Hence, the writ petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.54876

+1cc to Mr.F.B.Benjamin George, Advocate, S.R.No.54780

W.P.No.14089 of 2015

AR(CS IV)
CS/18/08/17



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