IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **09.10.2017**

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P.No.26307 of 2017
and WMP No.27967 of 2017

M/s.Megaa Arts,
by its Partner Mr.C.Thangavelu ... Petitioner

vs.

1. Indian Bank,
by its General Manager,
Rajaji Salai, Chennai - 600 001.

2. Indian Bank,
by its Chief Manager / Authorized Officer,
36, North Park Street,
Venkatapuram, Ambattur,
Chennai - 600 053.

3. Indian Bank,
by its Branch Manager,
36, North Park Street,
Venkatapuram, Ambattur,
Chennai - 600 053. ... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the 3rd respondent Bank to execute Receipt cancelling the mortgage over the immovable property being land and building situated at Plot No.B-33, Type-B, Alegesa Nagar, Hanumanthaputheri, Chengalpattu 603 001 and return the original title deeds relating to the same, without insisting on payment of processing charges to the tune of Rs.2,65,500/- as demanded in Letter Ref.IB Venkatapuram/2017-18 dated 6.9.2017.

For Petitioner : Mr.R.Prasath

ORDER

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

Material on record discloses that Mr.C.Thangavelu, as Proprietor of Print Point, Chennai has availed Medium Term Loan of Rs.75 Lakhs from Indian Bank, Chennai. Mr.C.Dass, Chennai, has executed an agreement of guarantee dated 21.07.2016. Both, have failed to repay the amount and hence, on 12.08.2017, bank has classified the loan account as Non Performing Asset. As on 31.08.2017, a sum of Rs.73,35,692/- was due. Therefore, bank has issued a notice under Section 13(2) of the SARFAESI Act, 2002 dated 04.09.2017, to the petitioner, as well as to Mr.C.Dass, Chennai, the guarantor, to pay Rs.73,35,692/-, together with interest, from 01.09.2017, till date of payment and costs, within 60 days from the date of notice issued under Section 13(2) of the Act, failing which bank would be constrained to exercise the rights of enforcement of security interest without any further reference to the petitioner and guarantor. Bank has further informed that failing payment, action under Section 13(4) of the SARFAESI Act, 2002, would be taken.

2. Material on record further discloses that on 01.09.2017, petitioner has written a letter to the General Manager, Indian Bank, Chennai, the 1st respondent herein, requesting to return the documents. He has also stated that due to health condition, payment of EMIs for three months was pending.

After issuance of the notice dated 04.09.2017 under Section 13(2) of the SARFAESI Act, 2002, bank, vide letter dated 06.09.2017, has informed the petitioner that the bank would release the documents of the above account, on regularisation of group account M/s.Print Point - the overdue amount of Rs.6,85,000/- and payment of processing charges - Rs.2,65,500/-, as promised by M/s. Megaa Arts, Chennai.

3. M/s.Print Point, Chennai, is the borrower. M/s.Megaa Arts, Chennai represented by its Partner, C.Thangavel, has filed instant writ petition. Mandamus cannot be issued directing bank to cancel the mortgage over the immovable property and to return the original title deeds. Court cannot issue any directions to the bank to enter into a contract or to release the documents, as prayed for. Relief sought for cannot be granted. Hence, the writ petition is dismissed. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

(S.M.K., J.) (R.S.K., J.)
09.10.2017

Index: Yes/No.
Internet: Yes
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S.MANIKUMAR, J.
AND
R.SURESH KUMAR, J.

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