

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.02.2017

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THE HONOURABLE Mr. JUSTICE M.SUNDAR

W.P.No.37016 of 2016
and W.M.P.No.31828 of 2016

A.Selvaraj

[Petitioner]

Vs

- 1 The Chief General Manager
State Bank of India
Rajaji Salai
Chennai- 600 017.
 - 2 The Regional Manager
State Bank of India
Network-II Region-II
Zonal Office Kurinchi Complex
Covai-641 018.
 - 3 The Chief Manager
State Bank of India
Commissioners Road
Udagamandalam-643 001
Nilgiris.
 - 4 The Personal Manager (Banking)
State Bank of India
Commissioners Road
Udagamandalam-643 001
Nilgiris.
- [Respondents]

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking a writ mandamus directing the respondents to hand over the original title deeds immediately or within the time period fixed by this Court and consequently direct the respondents to pay compensation amounting to Rs.25,00,000/- for the loss suffered by the petitioner.

For Petitioner : Mr.SP.Yuaraj

For Respondents: Mr.Adhikesavalu for
Mr.K.Chandrasekaran

ORDER

Mr.Yuvaraj, learned counsel is present on behalf of the writ petitioner. M.Adhikesavalu, learned counsel is present on behalf of the respondents representing Mr.K.Chandrasekaran, learned counsel on record for State Bank of India (SBI for brevity).

2. By consent of both the learned counsel, the main writ petition is taken up for disposal.

3. The entire matter turns on a very short and narrow compass.

4. The writ petitioner availed education loan from SBI. For this purpose, an equitable mortgage was created by deposit of title deeds of the petitioner's spouse one S.Jayakodi. The title deeds are original sale deed No.2504/1997 dated 12.12.1997 and a photo copy of the parent document being document No.231/1979 dated 25.01.1979, both on the file of the Joint Registrar's Office, Salem West.

5. It is not in dispute that the loan has been duly closed on 24.03.2010, but the original title deed together with the photocopy of the parent document referred to supra could not be returned to the writ petitioner's wife/mortgagor as the mortgagee Bank SBI had misplaced the title deed and the photocopy of the parent document.

6. After making several attempts, the writ petitioner has filed the instant writ petition in this Court with a prayer to mandamus SBI to handover the original title deeds immediately or within a time frame to be fixed by this Court. Writ petitioner had also sought for compensation of Rs.25 lakhs for the loss suffered by him.

7. This writ petition was admitted on 24.10.2016. Post admission, when the miscellaneous petition being WMP.No.31828 of 2016 came up for hearing on 17.02.2017, this Court passed an order with certain directions. The relevant portion is paragraph No.7 of the order and the same reads as follows:

"7. Be that as it may, considering the facts of the case and considering the fact that there is no dispute that the petitioner's education loan has been completely discharged and cleared way back in 2010, an affidavit sworn to by the 1st respondent shall be filed in this Court by 03.03.2017, with advance copy to the writ petitioner, setting out the following:

a) What internal departmental action has been taken in the last six years by SBI with regard to documents that have been misplaced? All details in this regard, particularly about whether responsibility has been fixed need to be given.

b) Whether any police complaint being preferred, which, admittedly, is the first step towards the alternative of procuring certified copies of the title deeds at the cost of SBI and to be given to the petitioner, and what other steps were taken?

c) What is the reasonable time frame within which the remedial measures at the cost of SBI shall be completed?".

However, today, Mr.Adikesavalu, learned counsel representing SBI states that the original title deed and the photocopy of the parent document stated supra have been located and that the same can be collected from the Bank by the writ petitioner's wife (Ms.S.Jayakodi) even by 25.02.2017. The only requirement on the part of the SBI is that writ petitioner's spouse being the mortgagor has to sign in the equitable mortgage register for getting back the documents and no other formalities are required.

8. This submission of the learned counsel for the SBI is recorded. Writ petitioner's counsel states that writ petitioner's wife will go to the office of the 3rd respondent at the earliest and sign in the equitable mortgage register and get back the original sale deed and the photocopy of the parent document.

9. With regard to the compensation limb of the prayer in the main writ petition, it is submitted that the writ petitioner and the Bank shall have a good Bank Customer relationship in the years to come. The Bank shall treat the customer fairly ignoring this legal proceedings.

10. The fair stand and effort taken by SBI and the learned counsel on record for SBI Mr.K.Chandrasekaran as well as Mr.Adikesavalu in expediting the whole matter and getting the original sale deed traced very quickly in less than a fortnight's time is appreciated.

11. Writ petition is disposed of on above terms. In view of the order passed in the main writ petition, the miscellaneous petition is closed as unnecessary.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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Nilgiris.

+1cc to Mr.S.P. Yuaraj, Advocate, S.R.No.12441
+1cc to Mr.K. Chandrasekaran, Advocate, S.R.No.12043

SKV(CO)
EU 09.03.17

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