BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 12.01.2017
CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH
AND
THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.(MD)No.564 of 2017
and
W.M.P.(MD)No.449 of 2017

S.Sureshkumar : Petitioner

Vs.

1. The Chief Manager/Authorised Officer,
State Bank of India, Sivaganga Branch,
Justice Rajasekaran Road,
Sivagangai, Sivagangai District.

2. The Regional Manager,
State Bank of India,
Regional Office No.II (Sivaganga Branch),
Trichy.

3. The General Manager,
State Bank of India-Head Office,
Nungambakkam, Chennai.

4. The General Manager,
SBI Life Insurance Company Ltd., (IRDA),
Central Processing Centre,
Kapas Bhavan, Plot 3A,
Sector-10, CBD Belapur,
Navi Mumbai-400 614. : Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the first respondent to consider the representations of the petitioner dated 23.08.2015 and 29.12.2016 and claim the insured amount of Rs.25,00,000/- and eligible bonus or other benefits from the fourth respondent in respect of Insurance Policy covered to the Housing Loan A/c.No.33172686236 dated 05.10.2013 and adjust the same against the Housing Loan Outstanding as on 20.06.2015 (i.e. date of death of the principal borrower) and consequently, return the title deed of the house and land admeasuring 4443 sq.ft. and situated in Survey No.46/826 (Part), T.S.No.28/1 (Part), Block No.11, Survey Ward-C, Old Ward No.10/New Ward No.22 at Venkatachalam Street, Sivagangai Town to the petitioner/co-borrower within a time limit to be fixed by this Court.

For Petitioner : Mr.A.Thirumurthy
For Respondents 1&3 : Mr.Pala Ramasamy

O R D E R

[Order of the Court was made by R.SUBBIAH, J.]

The petitioner has filed the present Writ Petition seeking for the issuance of a Writ of Mandamus, directing the first respondent to consider the representations of the petitioner dated 23.08.2015 and 29.12.2016 and claim the insured amount of Rs.25,00,000/- and eligible bonus or other benefits from the fourth respondent in respect of Insurance Policy covered to the Housing Loan A/c.No.33172686236 dated 05.10.2013 and adjust the same against the Housing Loan Outstanding as on 20.06.2015 (i.e. date of death of the principal borrower) and consequently, return the title deed of the house and land admeasuring 4443 sq.ft. and situated in Survey No.46/826 (Part), T.S.No.28/1 (Part), Block No.11, Survey Ward-C, Old Ward No.10/New Ward No.22 at Venkatachalam Street, Sivagangai Town to the petitioner/co-borrower, within a time limit to be fixed by this Court.

2. The case of the petitioner is that his sister, by name Amutha @ Meenal borrowed a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only) from the first respondent under the Housing Term Loan (Loan A/c.No.33172686236) on 05.10.2013 for the purpose of purchasing a house and land admeasuring 4443 square feet, situated in Survey No.46/826(Part), T.S.No.28/1 (Part), Block No.11, Survey Ward-C, Old Ward No.10 and New Ward No.22 at Venkatachalam Street, Sivagangai Town and she mortgaged the said house and land to the State Bank of India as a security for the purpose of availing housing loan and also deposited the original title deeds of the house with the first respondent. The petitioner is the co-borrower for the above said house. The housing loan amount was duly repaid by the petitioner and his sister from the Joint Bank Account A/c.No.33151826927. The expenses for applying policy and one premium on 05.08.2013 have also been paid from the joint account. It is further submitted that at the request of the first respondent, his sister took one insurance policy viz., SBI Life RiNn Raksha" for a sum of Rs.25,00,000/- (Rupees Twenty Five Lakhs only), which is equivalent to housing loan amount, with 20 years plan on 23.08.2013. Under this plan, the name of the Master Insurance Policy Holder is State Bank of India, Sivaganga and the Master Insurance Policy Number is 70000011107 and the petitioner's membership number is 7003408295. This insurance policy covers the outstanding loan amount at the time of death in respect of housing loan.

3. While so, the petitioner's sister died on 22.06.2015 and the petitioner has remitted two installments of housing loan on 07.07.2015. In view of the fact that since the sister of the petitioner died on 22.06.2015, the housing loan outstanding will be paid by the fourth respondent from the insurance amount, as the insurance policy covers the above said housing loan, he made an application dated 23.08.2015 to the first respondent to adjust the housing loan outstanding from the above said insurance policy amount, but the same was not considered.

4. While so, the first respondent issued the possession notice dated 04.03.2016 alleging non-repayment of housing loan to the tune of Rs.27,97,374/- as on 02.03.2016. Therefore, sale notice dated 07.04.2016 was issued by the first respondent fixing the loan outstanding at Rs.28,34,413/- and the writ petitioner objected to the same. However, the first respondent issued the tender -cum- auction sale notice dated 20.05.2016 fixing the auction sale of the said house on 23.06.2016 at 11.30 a.m., by fixing the reserved price at Rs.39,10,500/-. Thereafter, once again, the petitioner made a representation dated 29.12.2016 to the respondents requesting to claim the housing loan outstanding amount as on 22.06.2015 i.e., the date of death of the sister of the petitioner, who is the principal borrower, from the insurance amount covered under the insurance policy No.70000011107 in the name of the State Bank of India, Sivaganga and release the house from the mortgage. Since the same has not been considered so far, the petitioner is before this Court with the present Writ Petition.

5. Today, when the matter was taken up for consideration, the learned counsel for the respondents 1 to 3 submits that the first respondent would consider the representations of the petitioner on merits.

6. In view of the above said submission made by the learned counsel for the respondents 1 to 3, without going into the merits of the claim made by the petitioner, we direct the first respondent to consider the representations of the petitioners dated 23.08.2015 and 29.12.2016 and pass appropriate orders on merits and in accordance with law, within a period of three weeks from the date of receipt of a copy of this order. It is made clear that this Court has not expressed any opinion with regard to the merits of the claim made by the petitioner. It is for the first respondent to decide the same purely on merits.

7. The Writ Petition is disposed of in the above terms. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar

+ 1 CC TO Mr.A.THIRUMURTHY, ADVOCATE IN SR No. 2489
+ 1 CC TO Mr.PALA RAMASAMY, ADVOCATE IN SR No. 2974

SML
TE/SV-MMS : 03/02/2017 : 3P/3C

Order made in
W.P.(MD)No.564 of 2017 and
W.M.P.(MD)No.449 of 2017
Dated: 12.01.2017