

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2018

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THE HONOURABLE Mr.JUSTICE V.PARTHIBAN

W.P.No.4990 of 2012

R.Krishnamoorthy

... Petitioner

Vs

1. The Chief Manager,
Bank of India,
Salem Branch,
Salem.

2. The Senior Branch Manager,
Bank of India,
Old No.30-31, Gandhi Road,
New No.57-59, 1st Street,
Post Box No.20,
Kancheepuram-631 501.

3. The Zonal Manager,
Bank of India,
Zonal Office Chennai Zone,
Star House Old No.17, New No.20,
Errabalu Street, Chennai-600 001.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the second respondent herein to return the original title deeds pertaining to the property of 2 vacant sites bearing Survey Nos.171 and 173 in Ward C, Block 6 in Alagapurampudur, Salem District to an extent of 10,924 and 3,868 sq.ft. respectively as handed over by the petitioner to the Bank in lieu of the mortgage to the petitioner within a limited time frame or in the alternative to forthwith issue a 'non-traceable certificate' with respect to the above mentioned title deeds of the property of 2 vacant land sites having Survey Nos.171 and 173 in Ward C, Block 6 in Alagapurampudur Salem District to an extent of 10.924 and 3868 square feet respectively.

For Petitioner : Mr.M.Ravi

For Respondents: Mr.S.Sathiyarayanarayan for R1
Mr.R.Gowthama Narayanan for R2&R3

O R D E R

The petitioner has approached this Court, seeking the following relief:-

"To issue a Writ of Mandamus, directing the second respondent herein to return the original title deeds pertaining to the property of 2 vacant sites bearing Survey Nos.171 and 173 in Ward C, Block 6 in Alagapurampudur, Salem District to an extent of 10,924 and 3,868 sq.ft. respectively as handed over by the petitioner to the Bank in lieu of the mortgage to the petitioner within a limited time frame or in the alternative to forthwith issue a 'non-traceable certificate' with respect to the above mentioned title deeds of the property of 2 vacant land sites having Survey Nos.171 and 173 in Ward C, Block 6 in Alagapurampudur Salem District to an extent of 10.924 and 3868 square feet respectively."

2. When the matter is taken up for hearing, the learned counsel for the Respondent Bank would submit that for the same prayer, the petitioner has approached the Civil Court and obtained a decree in his favour in O.S.No.848 of 2008 on the file of the 1st Additional District Munsif Court, Salem. However, notwithstanding the judgment of the trial Court, the petitioner is before this Court seeking the same relief as if this Court is an executing Court. Such relief is per se not maintenance before this Court. It is open to the petitioner to approach the appropriate forum for executing the decree obtained by the petitioner in the aforesaid suit, as he may be advised.

3. Therefore, the writ petition is dismissed as not maintainable. No costs.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Chief Manager,
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+1 CC to Mr.M.Ravi, Advocate Sr.No.18608

+1 CC to Mr.S.Sathiyanaarayana, Advocate Sr.No.18377

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PVS (CO)
KP (03/04/2018)

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