



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 20.02.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
AND
THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

W.P.(MD).No.3385 of 2018
and
W.M.P.(MD).No.3512 of 2018

Dr.Swetha

... Petitioner

Vs.

1.The Authorised Officer,
State Bank of India,
Stressed Asset Recovery Cell(SAEC)
Administrative Unit Net Work 2, 1st Floor,
Macdonalds Road,
Trichy-1.

2.The Branch Manager,
State Bank of India,
Wooraiyur,
Trichy.

3.Ramamoorthy

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents 1 and 2 herein from handing over the title deeds in favour of the 3rd respondent or any one claiming through 3rd respondent pertaining to petitioner property situated at ie., Naveen Medical Centre in Survey No.25/2, 2-A Prottiur Village, Dindigul Main Road, Trichy District, on the basis of the notice dated 17.08.2017 issued by the 2nd respondent and consequently direct the 1st and 2nd respondents to hand over the title deeds to the petitioner pertaining to her above mentioned property.

For Petitioner

: Mr.B.Jammal Arasu

O R D E R

[Order of the Court was delivered by T.S.SIVAGNANAM, J.]

Heard Mr.B.Jammal Arasu, learned counsel appearing for the petitioner.



2. By consent, the writ petition itself is taken up for final disposal, at the stage of admission.

3. The petitioner seeks for issuance of a writ of mandamus to forbear the respondent State Bank of India from handing over the title deeds in favour of the third respondent or any one claiming through the third respondent in respect of the property in question.

4. Pursuant to the communication dated 17.08.2017 sent to the petitioner by the respondent Bank, it is seen that the petitioner and the third respondent are husband and wife and it appears that due to difference of opinion, they are separated. It is not clear whether there is any decree for divorce. The petitioner and the third respondent are said to have borrowed two loans from the respondent Bank. In one of the loan, the petitioner is the principal borrower and the third respondent is the co-borrower and the other loan, it is vice-versa. The allegation made by the petitioner is that even in respect of the loan, which was availed by the petitioner as a principal borrower, wherein the property alleged to have been exclusively owned by the petitioner, was offered as a collateral security. The third respondent settled the loan through the Lok Adalat pursuant to the reference made by the Debt Recovery Tribunal and he is now seeking to get the keys as well as the title deeds. In the background of these facts, the second respondent had sent a communication dated 17.08.2017 stating that they proposed to deliver the title deeds of both the properties to the third respondent. It is not known as to what transpired after 17.08.2017.

5. Though the learned counsel for the petitioner made an elaborate submissions with regard to the order passed by the Debt Recovery Tribunal, Lok Adalat award, none of those orders have been filed in the typed set of papers and there is no pleading to that effect. That apart, the communication, which is sent to the petitioner dated 17.08.2017, by efflux of time, it is not clear as to what happened thereafter. Therefore, if the petitioner's case is that the Lok Adalat award is incorrect and/or that the respondent Bank cannot hand over the title deeds to the third respondent, he has to first approach the respondent Bank, then, work out her remedies in accordance with law.

6. Accordingly, the writ petition is disposed of. However, while rejecting the relief sought for, liberty is granted to the petitioner to approach the respondent Bank for necessary relief. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (T&P)

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Sub Assistant Registrar



To

1.The Authorised Officer,
State Bank of India,
Stressed Asset Recovery Cell (SAEC)
Administrative Unit Net Work 2, 1st Floor,
Macdonalds Road,
Trichy-1.

2.The Branch Manager,
State Bank of India,
Wooraiyur,
Trichy.

+1cc to M/S.B.Jammal Arasu, Advocate SR.No. 49966

W.P. (MD) .No.3385 of 2018
and
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JM/SKN RSK/SAR 2/06.03.2018/3P/4C