

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 11.07.2019****CORAM:****WEB COPY****THE HONOURABLE Mr.JUSTICE R.SURESH KUMAR****W.P. (MD) No.6812 of 2017**

Vijayaramalingam.S.

... Petitioner

Vs.

1.Union of India,
Rep.by the Secretary,
Ministry of Finance,
North Block,
New Delhi - 1.

2.The Lead District Manager,
Convenor,
District Consultative Committee,
For Banking Development,
Canara Bank, Lead Bank Office,
Madurai.

3.The Manager,
Union Bank of India,
Kochadai Branch,
Madurai.

... Respondents

Prayer: The petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents No.3 to return the petitioner's educational certificates ie., 10th mark sheet, Technical qualification certificate (Lower and Higher) Degree incomplete mark statement and school leaving transfer certificate and certificates pertaining to business IE Code in the name of Sastha global, TNGST Registration Certificate of South India Fertilizer Company, NPK Manual Mixing Manufacturing licence under the Joint Director of Agriculture, Madurai, Sales Tax, Income Tax assessment files two wheeler registration certificate to me b y the way of considering the petitioner's representation dated 04.04.2017 within the time stipulated by this Court.

For Petitioner : Mr.S.Vijayaramalingam (party in person)
For Respondents : Mr.C.Nanthagopal, CGSC for R1
No appearance for R2
Mr.R.Pandivel for R3

O R D E R

The prayer in the Writ petition is for a Writ of Mandamus, directing the respondent No.3 to return the petitioner's educational



certificate ie., 10th mark sheet, Technical qualification certificate (Lower and Higher), Degree incomplete mark statement and school leaving transfer certificate and certificates pertaining to business IE Code in the name of Sastha global, TNGST Registration Certificate of South India Fertilizer Company, NPK Manual Mixing Manufacturing licence under the Joint Director of Agriculture, Madurai, Sales Tax, Income Tax assessment files two wheeler registration certificate to me by way of considering his representation dated 04.04.2017 within a time stipulated by this Court.

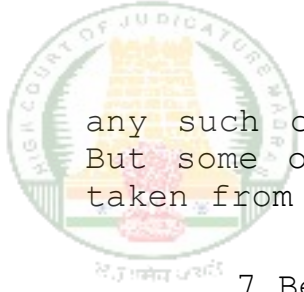
2. Heard the petitioner, who has appeared party in person, Mr.C.Nanthagopal, learned Central Government Standing Counsel for the first respondent and also Mr.R.Pandivel, learned standing counsel appearing for the third respondent / Bank.

3. It seems that the petitioner's property has been sold by the third respondent / Bank in a SARFAESI proceedings. Pursuant to which, when the Bank was taking possession of the property of the petitioner, it seems that some immovable properties also, which have been kept inside the property of the petitioner, had been recovered and the same had, according to the Bank subsequently, sold.

4. In this context, it is the case of the petitioner that, while taking the movables from the premises of the petitioner on 17.02.2010 in the absence of the petitioner, some important documents, mentioned in the prayer in the Writ petition, have also been taken by the Bank and the same, when was requested by the petitioner, was not returned by the Bank and in this regard, though the petitioner was directed to contact a third party, in whose premises, those movables viz., unwanted papers, etc., recovered from the premises of the petitioner, had been kept and when the petitioner made an attempt with the third party, and searched in the premises where some old unusable items claimed to have recovered from the petitioner premises, had been kept, however, the petitioner was not able to trace those documents mentioned in the prayer in the Writ petition.

5. In this regard, even though the petitioner claimed that he had immediately, given a police complaint in the year 2010 itself, despite his persuasive efforts, the concerned police did not investigate the matter and give any desired result. Only in that circumstances, the petitioner has approached this Court in the year 2017 by way of filing the present Writ petition with the aforesaid prayer.

6. The learned standing counsel for the third respondent, on instructions, would submit that, on 17.02.2010, an inventory had been taken to record the movables taken from the premises and a list of such inventory as annexure to inventory, signed by the third respondent / Bank and the concerned VAO, had been filed before this Court in the typed set of papers. On perusal, it does not reveal



any such certificates specifically as claimed by the petitioner. But some old papers and old paper boxes, etc., seem to have been taken from the petitioner's premises.

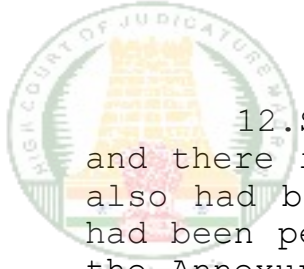
7. Be that as it may, the learned standing counsel for the third respondent very categorically stated before this Court, on instructions, that, except the said items mentioned in the inventory, dated 17.02.2010, no other movable goods namely, certificates, papers, etc., as claimed by the petitioner, had been taken by the third respondent / Bank and in this regard, the petitioner had never written any complaint or request to the Bank immediately in the year 2010 if at all had he lost any such document as claimed by him in this Writ petition to get back the same.

8. However, the petitioner submitted that, he returned back from Chennai on 20th February 2010 or 23rd February 2010 and after knowing the fact that the Bank had taken the movables also as per the inventory, wherein the certificate mentioned in the prayer in the Writ petition also could have been taken by them, he claimed to have approached the Bank and as per their direction, the petitioner went and searched in the third floor of the third party's premises, where these recovered goods had been kept in. However, the petitioner could not get back those certificates and thereafter, he claimed to have given police complaint to the concerned jurisdictional police officer, but, despite his persuasive efforts, the police did not investigate the matter.

9. I have considered said submissions made by the learned counsel for the third respondent as well as the petitioner, who appeared party in person.

10. On perusal of the inventory submitted by the third respondent / Bank, signed by the Bank as well as VAO concerned on 17.02.2010, this Court is not able to find any such documents as claimed by the petitioner, had been recovered from the petitioner's premises.

11. If at all as apprehended by the petitioner, any of such documents as claimed by him, had been recovered by the Bank, steps could have been taken by the petitioner immediately. Assuming that the petitioner had given a police complaint, he could have persuaded further to investigate the matter. Suppose the petitioner has failed in his attempt to persuade the police to complete the investigation, at least he could have made an attempt to get the non traceable certificate from the concerned police station and on the strength of such certificate, the petitioner could have attempted to get the certified copies of the documents as he mentioned in the prayer of the Writ petition.



12. Since such efforts had not been taken by the petitioner, and there is no proof to show that those certificates and documents also had been recovered by the Bank on 17.02.2010, when recoveries had been pertaining to some of the movable properties enumerated in the Annexure to the inventory list, this Court cannot conclude that those documents, claimed by the petitioner, had also been recovered by the Bank and have been kept by them.

13. In that view of the matter, the prayer sought for by the petitioner cannot be granted. Hence, the Writ petition is dismissed. However, it is open to the petitioner to approach the concerned police, where he claimed to have given complaint in the year 2010 about the alleged misplacement or for recovery of the certificates mentioned by him and in this regard, it is open to the petitioner to seek for a nontraceable certificate of those documents and once the petitioner is able to get such a nontraceable certificate from the concerned jurisdictional police and on the strength of the same, he can try to get certified copies of those documents mentioned by the petitioner in the prayer of the Writ petition, from such issuing authorities.

With these observations, this Writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Secretary,
Union of India,
Ministry of Finance,
North Block,
New Delhi - 1.
2. The Lead District Manager,
Convenor,
District Consultative Committee,
For Banking Development,
Canara Bank, Lead Bank Office,
Madurai.
3. The Manager,
Union Bank of India,
Kochadai Branch,



+1.CC. To Mr.S.Vijayaramalingam (party in person) in SR No.74860
+1.CC. To Mr.R.Pandivel, Advocate in SR No.74851

W.P. (MD) No.6812 of 2017
11.07.2019

WEB COPY

nbj

MK (06.09.2019) 5P 6C