IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.01.2020

CORAM:

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.14740 of 2018

S.Kesavan … Petitioner

Vs

1.The Branch Manager
Central Bank of India
Chrompet Branch,
Chrompet, Chennai - 600 044.

2.Santhakumari

3.Harikrishnan … Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue Writ of Mandamus, directing the first respondent to dispose of the representation dated 23.04.2018 by releasing the petitioner's title deed document No.412 of 1977 dated 08.06.1977.

For Appellant : Mr.M.Karthikeyan

For Respondents : Mr.T.M.Hariharan for R1
: M/s.Paul and Paul for R3

O R D E R

The writ petition has been filed in the nature of mandamus, directing the first respondent to dispose of the representation dated 23.04.2018 by releasing the petitioner's title deed document No.412 of 1977 dated 08.06.1977.

2.It is an unfortunate case where the second respondent is the wife of the petitioner and the third respondent is the son of the petitioner. It is stated that the petitioner has signed as guarantor by pledging his property for availing loan from the first respondent. It is also stated that the petitioner has cleared all the debts availed from bank and therefore, he sought for return of title deeds. However for the first respondent refused to retun the title deeds. Originally the petitioner had executed a conditional settlement deed in favour of the third respondent vide document No.2754 of 2009 before the Sub-Registrar Office, Pallavaram and subsequently, he had cancelled the said settlement deed vide document No.3187 of 2009. Hence, the third respondent had filed a civil suit in O.S.No.177 of 2017 before the District Munsif, Alandur to declare the cancellation of settlement deed as not valid and for injunction. The first respondent did not return back the documents stating that O.S.No.177 of 2017 is pending.

3. Since the petitioner had settled the dues with the bank, it is only appropriate that the bank returns the title deeds to the petitioner. If the petitioner seeks to create any encumbrances over the property, he cannot do so without seeking leave of the Court where O.S.No.177 of 2017 is pending.

4. It is stated by the learned counsel appearing for the third respondent that the third respondent has actually settled the dues to the bank.

5. This Court cannot examine the fact whether the petitioner or the third respondent had settled the dues to the bank. At any rate the petitioner has a right over the property and therefore, entitled to get back all the documents. Hence, the third respondent is directed to return all the documents to the petitioner. As stated above, on return of documents a protection is granted under Section 52 of the Transfer of Property Act. The petitioner cannot deal with the property without the leave of the Court where the suit in O.S.No.177 of 2017 is pending.

6. Accordingly, the writ petition is allowed. The first respondent is directed to return the title deeds as stated above on or before 31.01.2020. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

The Branch Manager,
Central Bank of India,
Chrompet Branch,
Chrompet, Chennai - 600 044.

+1cc to M/s.Paul & Paul, Advocate Sr.1515
+1cc to Mr.M.Karthikeyan, Advocate Sr.585
+1cc to Mr.T.M.Hariharan, Advocate Sr.808

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srg 21/01/2020