

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 13.02.2020
CORAM
THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.32383 of 2019

Swamy & Swamy Plantation private Ltd.,
Rep. By its Managing Director &
Authorized Signatory,
Registered Office:
101-B, Dr.Alagappa Chettiar Road,
Tatabad, Coimbatore - 641 012.

... Petitioner

...Vs...

M/s.Indian Bank
Rep by its Branch Manager,
Coonoor Branch,
No.10, Harihara Complex,
Ooty Main Road, Near Kamaraj Statute,
Coonoor.

...Respondent

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to hand over all the original title deeds pledged by the petitioner specifically for creating Equitable mortgage for the credit facility given by the Respondent to the petitioner company which the petitioner company has settled on 13.08.2019 based on the outstanding statement given by the respondent and to issue no dues certificate to the petitioner for closure of loans by the petitioner.

For Petitioner : Mr.N.L.Rajah, Senior counsel for
Mr.K.Narasimhan

For Respondent : Mr.Rajendran Raghavan

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O R D E R

The writ petition has been filed in the nature of a mandamus seeking a direction to the respondent to hand over the original Title deeds pledged by the petitioner specifically for creating Equitable mortgage in favour of the respondent bank namely the Indian Bank, Coonoor Branch. It is claimed that the petitioner had settled the mortgage amount on 13.08.2019.

2. In the affidavit filed in support of the writ petition, it had been stated that the respondent had sanctioned credit facilities to the petitioner namely Swamy & Swamy Plantation Private Limited at Coimbatore, on 12.08.2005 for a sum of Rs.160.00 lakhs. It was stated that the respondent had been periodically renewing the credit facilities since 2005. This was done owing to the fact that the petitioner was repaying the amounts without any default. A memorandum of deposit of Title Deeds was executed on 20.12.2017 and equitable mortgage was extended on the basis of the deposit of the following documents:

a) Equitable Mortgage of an extent of 2.665 acres of Factory land and building owned by the petitioner in the T.S.No.A/14/16 situated at High Field Estate, Coonoor, Nilgiris.

b) Equitable Mortgage of an extent of 38.09-4/16 acres of tea estate along with building thereon owned by the petitioner in the New S.No.A/11/4, A/11/9, A/11/2, A/11/6, A/11/11, A/11/12, A/11/13, A/11/7, A/11/8, A/11/16 and A/11/15 situated at Coonoor, Nilgiris.

c) Extended Equitable Mortgage of an extent of 2.665 acres of Factory land and building owned by the petitioner in the T.S.No.A/14/16 situated at High Field Estate, Coonoor, Nilgiris.

3. In the affidavit, it had been stated that the mortgage was granted only for the benefit of the petitioner company M/s.Swamy & Swamy Plantation Pvt Ltd.,. Unfortunately, in the petitioner company they had a Director viz., Mrs.K.Malathi. She resigned the post of Directorship on 30.03.2018. It appears that the said K.Malathi was also a Director in yet another company namely Sri Karunambigai Mills Private Limited. That company also had obtained similar loan facilities from the respondent bank. That company also deposited a separate set of title deeds for the facilities extended.

4. The respondent had taken a decision not to return the title deeds with respect to the present petitioner company, in view of the fact that Sri.Karunambigai Mills Private Limited had avoided repayment of the loan availed by them and had been declared as a Non performing Asserts. This decision was the reason for filing the present writ petition.

5. A counter affidavit has been filed by Mr.N.Krishnaraja, who is the Chief Manager of the respondent bank. Apart from stating other facts, he has categorically stated that the respondent would return the title deeds to the petitioner.

6. Mr.N.Krishnaraja is also present today. He admitted that the present petitioner company and Sri Karunambigai Mills Private Limited are two separate legal entities and had exempted two separate mortgages and had deposited two separate title deeds.

7. It is seen that the respondent bank had retained the title deeds of the petitioner company as a reason to force Sri Karunambigai Mills Private Limited to honour their dues.

8. This stand of the respondent bank cannot be permitted. It is also seen that the Director Mrs.K.Malathi had resigned as a Director of the petitioner company on 30.03.2018. The respondent cannot hold on to the title deeds deposited by the petitioner company though they had settled their mortgage on the narrow ground that the said Mrs.K.Malathi was once upon a time, a Director of both the petitioner company and Sri Karunambigai Mills Private Limited.

9. Under these circumstances, the petitioner / representative of the petitioner may approach the Zonal Officer, Indian Bank Zonal Office, Coimbatore on 21.02.2020 between 11 am and 12 noon and on that day the respondent is directed to return the Title deeds to the petitioner on proper clarification and acknowledgment.

10. With the above observations, this writ petition is disposed of. No costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

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To
The Branch Manager,
M/s.Indian Bank
Coonoor Branch,
No.10, Harihara Complex,
Ooty Main Road, Near Kamaraj Statute,
Coonoor.

W.P.No.32383 of 2019

AD(CO)
CSR:17.02.2020