



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.08.2020

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHANW.P. (MD)No.7169 of 2020

WEB COPY

C.Sam Theodar

... Petitioner

Vs.

The Branch Manager,
Karnataka Bank,
Nagercoil Branch No.326, M.S.Road,
Vetturnimadam, Nagercoil,
Kanyakumari District.

... Respondent

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent Bank to cancel the MOD executed by the petitioner in favour of the respondent Bank with relating to the property in R.Sy.No.172/4B of Mulagumoodu Village, Kalkulam Taluk, Kanyakumari District vide Document No.783/2016 and 1078/2018 of the Sub Registrar Office, Eraniel and to return the title deed to the petitioner within the time stipulated by the Court.

For Petitioner : Mr.M.R.Sreenivasan

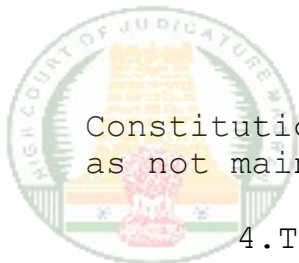
For Respondent : Mr.N.S.Karthikeyan

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondent Bank.

2.The petitioner has availed loan from the respondent Bank. To secure the same, the petitioner had offered the petition mentioned property as security. The same has also been duly registered. Now the loan account has been taken over by the Bank. As regards this loan account, there are no dues. But then, the respondent Bank has not come forward to remove from the register of encumbrance. Therefore, this Writ Petition came to be filed.

3.When the matter was taken up for hearing, the learned Standing Counsel appearing for the Bank pointed out that the petitioner had stood as a guarantor for another loan account and that the same is still pending. More than anything else, he pointed out that the Writ Petition itself is not maintainable. This is because, Karnataka Bank is not a Nationalised Bank. It is a scheduled Bank. He drew my attention to the decision of the Hon'ble High Court of Karnataka in W.P.No.10053 of 2008. The Hon'ble Karnataka High Court had held that karnataka Bank being a Private Bank cannot be considered as a State under Article 12 of the



Constitution of India and therefore, the writ petition was dismissed as not maintainable.

4.This Court had also consistently taken a view that against a Scheduled Bank, the Writ Petition will not lie. This Court had only followed the decision of the Hon'ble Supreme Court made in **Appeal (civil) No.106 of 2001 (Federal Bank Ltd., Vs. Sagar Thomas)**. Therefore, in view of the same, I have to necessarily hold that the Writ Petition is not maintainable. However, liberty is given to the petitioner to avail such remedy available to him under law. The Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (crl side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

rmi

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Branch Manager,
Karnataka Bank,
Nagercoil Branch No.326, M.S.Road,
Vetturnimadam, Nagercoil,
Kanyakumari District.

W.P. (MD)No.7169 of 2020
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VB (04.09.2020) 2P 2C