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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2021

CORAM

THE HONOURABLE MR. JUSTICE R. MAHADEVAN

WRIT PETITION NO. 4860 OF 2021

C.Kumar

...Petitioner

Versus

1.The Zonal Manager

Chennai Zonal Office
Central Bank of India
No. 48/49, Monteith Road,
Egmore Road, Chennai - 600 008.

2.The Regional Manager,

Chennai Regional Office,
Central Bank of India
No. 48/49, Monteith Road,
Egmore Road, Chennai - 600 008.

3.The Branch Manager,

Central Bank of India,
Tiruvottriyur Branch
Chennai - 600 019.

4.M/s.Jagadamba Carbon-dioxide Private Limited,

130/5, Manali - Ponneri High Road,
Manali, Chennai - 600 081

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents to forthwith hand over the original title deeds of the property bearing Door No.I - 5, Rohini Garden, Raja Annamalaipuram, Chennai - 600 028 to the petitioner.

For Petitioner : Mr.K.Raja

For Respondents-1 to 3 : Mr.F.B.Benjamin George



ORDER

With the consent of both sides, this writ petition is taken up for final disposal.

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2. The present writ petition has been filed by the petitioner seeking to issue a Writ of Mandamus directing the respondents to forthwith hand over the original title deeds of the property bearing Door No.I - 5, Rohini Garden, Raja Annamalaipuram, Chennai - 600 028 to him.

3. It is stated by the petitioner that he is the adopted son of Mr.Rathna Velu and Mrs.Parameshwari, who have no children born out of their wed lock and therefore, they have adopted him as their son. The said Rathna Velu died on 19.12.1992. Thereafter, in the year 2003, the said Parameshwari who was the owner of the aforesaid property, provided the same as a collateral security for the loan availed by the fourth respondent with the respondent Bank. The said Parameshwari died on 16.02.2006. Subsequently, the said loan was cleared by the fourth respondent in the year 2013. After her death, as an indemnifier, the petitioner had cleared all the loans availed by her on her movable and immovable properties. Whenever the petitioner approached the third respondent and requested to hand over the original title deeds, the third respondent informed him that the same could not be handed over to him, unless the dispute between him and one Manivasugi, sister of the deceased Parameshwari gets resolved.

4. In this context, reference was made to T.O.S.No.7 of 2007 filed by the deceased Parameshwari's brother and sister viz., Anbazhagan and Manivasugi for granting of Letters of Administration under Sections 218 & 278 of the Indian Succession Act to the properties and credits of Mrs.Parameshwari who died intestate. In the said suit, the petitioner is the first defendant. The said suit was dismissed by this Court vide judgment dated 20.04.2017, against which, the said Anbazhagan and Manivasugi had preferred an Original Side Appeal in O.S.A.No.322 of 2017 before the Division Bench of this Court, and the same was also dismissed vide judgment dated 21.12.2018. Thereafter, the petitioner sent a legal notice dated 06.03.2020 to the third respondent, seeking to hand over the original title deeds or in the alternative pay the cost of the property viz.,



Rs.3,00,00,000/- in addition to damages, for which, the third respondent vide reply notice dated 21.03.2020, informed him that all the documents deposited at the time of creating equitable mortgage were in tact and therefore, unless he produces the specific Court order to show that he is entitled for the return of original documents standing in the name of deceased Parameshwari, the original title deeds could not be handed over to him. Thereafter, on 17.08.2020, the petitioner sent a rejoinder to the third respondent, stating that as per the judgment passed by this Court in T.O.S.No.7 of 2007 as well as O.S.A.No.322 of 2017, he is the only person entitled to get the original title deeds. In response to the said rejoinder, the third respondent sent a reply notice dated 17.09.2020 to him, stating the unless he produces the Succession Certificate to show that he is entitled for the return of original documents standing in the name of deceased Parameshwari, the original title deeds could not be handed over to him. Aggrieved by the act of the third respondent, the petitioner has filed this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed before this Court.

6. As far as this case is concerned, the legal battle between the petitioner and the fourth respondent had already ended in favour of the petitioner. The property in question is the self acquired property of the deceased Parameshwari. After her demise, as an indemnifier, the petitioner had cleared all the loans availed by her and till date, he has been holding the possession of all her properties. It is also to be noted that this Court had dismissed O.S.A.No.322 of 2017 filed by the siblings of the deceased Parameshwari by holding that as per Section 15(1)(b) of the Hindu Succession Act, the petitioner/indemnifier would have priority to succeed the estate of the deceased Parameshwari. Further, as per the oral direction of this Court dated 16.08.2021, the petitioner has sent a letter along with an indemnity bond dated 23.08.2021 to the third respondent, for the purpose of returning the original title deeds.

7. In such circumstances, taking note of the observation made by the Division Bench of this court in OSA.No.322 of 2017, which has not been questioned by any party, till date, and also



considering the fact that the petitioner already executed an indemnity bond dated 23.08.2021, this court deems it appropriate to direct the respondents 1 to 3 to consider the claim of the petitioner and pass appropriate orders, with respect to handing over the original title deeds standing in the name of the deceased Parameshwari to the petitioner. Such an exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order.

8. Accordingly, this Writ Petition stands disposed of.
No costs.

Sd/-
Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

mrr/rsh

To

- 1.The Zonal Manager,
Chennai Zonal Office,
Central Bank of India, 48/49, Monteith Road,
Egmore Road, Chennai - 600 008.
- 2.The Regional Manager,
Chennai Regional Office,
Central Bank of India, 48/49, Monteith Road,
Egmore Road, Chennai - 600 008.
- 3.The Branch Manager,
Central Bank of India,
Tiruvottriyur Branch, Chennai - 600 019.

+1cc to Mr.K.Raja, Advocate SR.No.48352

W.P.No.4860 of 2021

SSI(CO)
RVM(18/10/2021)