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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. No. 16887 of 2012

N. Sabapathy

.. Petitioner

Versus

1. Madeswaran Sukumar

2. M. Sagayamary

3. M. Reeta

4. Saleeswaran

5. Nivetha

6. Union Bank of India
Rep. by its Asst. Manager,
Triplicane Branch
Triplicane, Chennai

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the sixth respondent to hand over the original sale deed dated 18-01-2006 bearing document No. 279/2006 registered at S.R.O. Kundrathur, either in favour of the petitioner or the 2nd respondent, without insisting on N.O.C. from the 1st Respondent.

For Petitioner : Mr.G.Palani

For Respondents: Mr.Stalin Abhimanyu
Government Advocate (R1)
Mr. P. Rajendrakumar (R2 - R5)
Mr.K.Chozhan, M/s. Vijay Associates (R6)

O R D E R

The present writ petition has been filed seeking to direct the sixth respondent to hand over the original sale deed dated 18.01.2006 bearing Doc. No. 279/2006 registered on the file of SRO, Kundrathur, either in favour of the petitioner or the second respondent, without insisting on N.O.C. from the first Respondent.



2. According to the petitioner, he is doing real estate business associated with one, Saravanan, during the course of which, the respondents 1 to 5 approached the petitioner for sale of their property situated at Plot No. 3A, Kamatchi Amman Nagar, Mangadu Village, Sriperambadur Taluk, Kancheepuram District, comprised in S. No. 519, measuring 1200 sq.ft. Pursuant to the same, the petitioner discharged the equitable mortgage loan obtained by the respondents 1 to 3 and the husband of the third respondent from the sixth respondent upon depositing the original sale deeds pertaining to the said property, besides paying the entire sale consideration to the respondents 1 to 5. The sixth respondent bank also came forward to cancel the loan account and hand over the original sale deeds to the borrower of the loan. Subsequently, the respondents 1 to 5 executed a power of attorney on 30.04.2021 in favor of the said Saravanan, authorising him to sell the property on their behalf, which was registered as Document No. 945 of 2010 on the file of SRO, Kundrathur. Upon receipt of the loan amount, the sixth respondent bank cancelled the equitable mortgage, insofar as the shares of respondents 2 to 5 are concerned, as they came forward to hand over the original documents to the petitioner by no objection certificate to the bank. In respect of the share of the first respondent, due to family dispute with his wife/second respondent, he did not come to the bank and give no objection certificate, due to which, the sixth respondent failed to hand over the original documents to the petitioner. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3. The learned counsel for the petitioner submitted that though the petitioner paid the entire sale consideration and discharged the mortgage loan obtained by the respondents 1 to 5, the sixth respondent bank failed to hand over the original documents pertaining to the subject property to the petitioner. Hence, the learned counsel prayed for appropriate direction in this regard.

4. Heard the learned counsel appearing for the respective respondents and perused the materials placed before this court.

5. Considering the facts and circumstances of the case, more particularly that the entire loan amount has already been paid to the bank, but they failed to release the documents to the petitioner for want of no objection certificate from the first respondent, and having regard to the submissions made by the learned counsel on either side, this court directs the sixth respondent to consider the claim of the petitioner with regard to the release of the documents and pass appropriate orders, on merits and in accordance with law, within a period of two weeks



from the date of receipt of a copy of this order.

4. Accordingly, this writ petition stands disposed of. No costs.

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Sd/-
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

dhk

To

Asst. Manager, Union Bank of India
Triplicane Branch
Triplicane, Chennai.

W.P. No. 16887 of 2012

AJS (CO)
CB(06/10/2021)