IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

CORAM

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.NO.14358 OF 2021

R.Jamuna

...Petitioner

Versus

1. The Reserve Bank of India,
   No.16, Rajaji Salai,
   Fort Glacis, Chennai – 600 001.

2. M/s.Home First Finance Company India Private Ltd.,
   1st Floor, Above Paragon Showroom,
   Next to Avadi Axis Bank,
   Door No.255, Poovai Road,
   Avadi, Tiruvallur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorari calling for the records on the file of the 2nd respondent Letter issued in Ref.No.HomeFirst/2021-22/JR/01 dated 25.06.2021 and to quash the same, thereby directing the 2nd respondent to return the petitioner's property original documents in respect of land to an extent of 430.56 Sq.ft., bearing Door No.2595, EWS B-Type, TNHB Ayyapakkam, Chennai – 600 077 within a stipulated time by considering the petitioner's representation dated 02.06.2021.

For Petitioner	:	Mr.N.Vijaya Baskar
For Respondent – 1	:	Mr.C.Mohan
Respondent – 2	:	No Appearance

O R D E R

The prayer made in this writ petition is to issue a writ of certiorarified mandamus calling for the records relating to the communication dated 25.06.2021 sent by the second respondent, quash the same and consequently, direct the second respondent to return the original documents pertaining to the petitioner's property measuring to an extent of 430.56 sq.ft bearing Door No.2595, EWS B-Type, TNHB Ayyapakkam, Chennai – 600 077, within a stipulated time to be fixed by this court, by considering the petitioner's representation dated 02.06.2021.

2.According to the petitioner, she is the absolute owner of the subject property, which was allotted to her on 30.10.1994 by the Tamil Nadu Housing Board and thereafter, the TNHB executed a sale deed in her favour on 6.06.2005, which was registered as Document No.6621/2005 dated 28.06.2005 on the file of SRO, Ambattur, Chennai. The petitioner further averred that in order to put up construction, she availed equitable mortgage loan to the tune of Rs.15,00,000/- from the second respondent on 28.04.2017. When she was repaying the said amount in monthly installments, in view of the exorbitant interest charged by the second respondent, the petitioner's son Devaraj pre-closed the said loan along with interest, by way of D.D.No.016871 dated 24.03.2021 drawn on HDFC Bank, Chennai-4. Upon receipt of the said payment on 25.03.2021, it was informed by the second respondent that after completing all the legal formalities, no objection certificate for cancelling the deposit of the title deeds will be issued and the original documents pertaining to the subject property will be returned within three working days i.e., on or before 28.03.2021. However, the second respondent did not return the original documents to the petitioner, for want of presence of co-applicants viz., two sons of the petitioner. Stating that as per the rules and regulations framed by the first respondent, the borrower of the loan account holder alone is entitled to receive the original documents and not the co-borrowers/co-applicants, the petitioner made a representation dated 02.06.2021 enclosing all the required documents to the second respondent requesting to return the original documents, which yielded no response. Subsequently, as directed by the first respondent, the second respondent sent a reply dated 25.06.2021 rejecting the representation of the petitioner dated 02.06.2021 stating that for handing over of the original title deeds, all the parties to the loan i.e., Principal Applicant and Co-applicants shall be an acknowledging party to the closure letter in accordance with the loan agreement and avoidance of any future discrepancy. Feeling aggrieved, the petitioner has come up with this writ petition for the aforesaid relief.

3.The learned counsel for the petitioner submitted that the petitioner discharged the mortgage loan obtained from the second respondent in respect of the subject property and as of now, nothing remains to be paid by her. In such circumstances, the second respondent ought to have returned the original documents pertaining to the subject property, whereas they insisted the petitioner to be present along with the co-applicants for handing over the documents. Thus, the learned counsel sought to quash the communication so issued by the second respondent and issue appropriate direction to them in this regard.

4.Despite the service of notice and the name of the second respondent having been printed in the cause list, there was no representation on their behalf for the last three occasions i.e., 14.09.2021, 21.09.2021 and 28.09.2021. Even today, there is no representation for the second respondent. However, taking note of the submissions made by the learned counsel for the petitioner and upon perusal of the documents enclosed in the typed set of papers, this court is inclined to proceed with the matter on merits.

5.It is the specific case of the petitioner that once the mortgage loan was discharged, it is the bounden duty of the second respondent to return the original documents to the borrower. Whereas, the original documents pertaining to the subject property were not handed over to the petitioner, though she repaid the entire loan amount, even before the scheduled period. It is the further case of the petitioner that the co-applicants of the loan transaction only share the responsibility of repaying the loan amount along with the principal applicant and their presence is not required for handing over the original documents, after closure of the loan account.

6.On a perusal of the communication impugned herein, it is seen that the second respondent admitted the payment of the outstanding loan amount and provided receipt to the petitioner on 25.03.2021. However, they insisted the presence of all the parties to the loan i.e., principal applicant and co-applicants, for handing over the original title deeds, in order to avoid future discrepancy.

7.This court, taking note of the facts and circumstances of the case, more particularly that the title deeds of the property stand in the name of the petitioner, who is the principal applicant of the loan obtained from the second respondent and the entire loan amount was settled by the petitioner, is inclined to dispense with the appearance of the co-applicant(s) before the second respondent, subject to production of 'no objection / consent letter' to the second respondent through the petitioner. Accordingly, the communication impugned herein is modified and the petitioner shall obtain no objection / consent letter from the co-applicant(s), who is/are unable to appear before the second respondent, for the purpose of receiving the original documents of the subject property and thereafter, furnish the same to the second respondent. On such production, the second respondent shall hand over the original documents pertaining to the subject property to the petitioner, within a period of two weeks thereafter.

8.This writ petition stands disposed of in the above terms. No costs.

Sd/-
Deputy Registrar(CS)

// True Copy //

Sub Assistant Registrar

mrr

To

The Reserve Bank of India,
No.16, Rajaji Salai,
Fort Glacis, Chennai – 600 001.

+1cc to M/s.Law Vision, Advocate, S.R.No.51841

W.P.No.14358 of 2021

NK(CO)
RLP(01/11/2021)