



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.25427 of 2021

Kuganesan Ramachandran,
Represented by his Power Agent,
R.Bhavani.

... Petitioner

Vs.

1.ICICI Bank Limited,
Represented by its Chairman,
ICICI Bank Tower, Near Chakli Centre,
Old Padra Road, Vadodara, Vadodar,
Gujarat - 390 007.

2.The Branch Manager,
ICICI Bank, Besant Nagar Branch,
2nd Avenue, Besant Nagar,
Chennai - 600 090.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents to remove the encumbrance caused by Memorandum of Deposit of title deeds dated 11.01.2016 and 22.02.2017 by registering the receipt acknowledging full closure of the corresponding loan availed by the petitioner.

For Petitioner : Dhanaram Ramachandran

For Respondents : No appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents to remove the encumbrance caused by Memoranda of Deposit of title deeds (MODT) dated 11.01.2016 and 22.02.2017 by registering the receipt acknowledging full closure of the corresponding loan availed by the petitioner.

2. The case of the petitioner is that he has executed a



power of attorney in favour of his mother R.Bhavani in the year 2015. Thereafter, the petitioner purchased a flat No.20, 3rd Floor, Temple View Apartments, approved layout No.46/83, Dr.Vasudevan Nagar Extension, Thiruvannamiyur, Chennai - 600 041 to an extent of 682 sq.ft. vide sale deed dated 04.11.2015 vide document No.13545 of 2015. The petitioner executed a memorandum of deposit of the title deed dated 11.01.2016 registered vide document No.272/2016 on the file of Sub-Registrar Joint-I, Saidapet in favour of the respondents to avail Overdraft facility in favour of M/s.Komatha Impex Private Limited, where he is working as Manager. On 06.07.2016, the said company has purchased a residential property vide sale deed document No.1688/2016 by taking home loan towards the purchase of the said property for a sum of Rs.1,20,00,000/- and for additional working capital, a MODT was executed by the petitioner for a sum of Rs.25,00,000/- in favour of the M/s.Komatha Impex Private Limited registered as document No.1531/2017 dated 22.02.2017. Thereafter, on 01.09.2020, the said company closed the OD facility, and to that effect, a closure report was issued to the respondent. Again, the petitioner entered into a sale agreement dated 11.10.2021 with one Senthilkumar to sell the property, for which the petitioner sought for encumbrance certificate for the property by registering the receipt. However, the 2nd respondent sent email dated 19.10.2021 to the petitioner stating that the loans are linked to the current home loan and hence, the MODT cannot be cancelled. Therefore, the petitioner issued a legal notice dated 22.11.2021 calling upon the respondents to come forward to register the receipt. However, no order was passed by the respondents. Therefore, the present writ petition has been filed before this Court.

3. Mr.Dhanaram Ramachadran, learned counsel for the petitioner submitted that though there is no provision for registering the receipts by the respondents, however the respondent's attitude for not registering receipt is bad in law and it would suffice if this Court issues direction to the 2nd respondent to register the receipt of the petitioner and to consider the petitioner's representations dated 11.01.2016 and 22.02.2017 and pass orders on the same within a stipulated time as fixed by this Court. The learned counsel further submitted that the first respondent executed MODT with the petitioner and even on the payment of the entire amount, the receipt was not registered by the 1st respondent. Hence, this Court may issue appropriate directions.

4. Heard the learned counsel for the petitioner and perused the materials available on record. If this writ petition



is taken up for disposal, there is no prejudice caused to the respondents and hence, the appearance of the respondents is dispensed with.

5. The petitioner had entered MODT with the first respondent. The petitioner claims that even after the payment of the entire amount, the receipts were not registered by the first respondent. In such circumstances, if there is any grievance against the respondents, the petitioner has to approach the Banking Ombudsmen, Reserve Bank of India. However, the petitioner has approached this Court and filed a writ petition under Article 226 of the Constitution of India which is not sustainable. Further there is no provision or guidelines available for registering the receipts. In the absence of any provision or guidelines, this Court cannot issue any mandamus to the respondents. Hence, the prayer sought for by the petitioner cannot be considered and the same is rejected.

6. In the result, the Writ Petition is dismissed. However, the petitioner is at liberty to work out his remedy in the manner known to law. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1.The Chairman,
ICICI Bank Limited,
ICICI Bank Tower, Near Chakli Centre,
Old Padra Road, Vadodara, Vadodar,
Gujarat - 390 007.

2.The Branch Manager,
ICICI Bank, Besant Nagar Branch,
2nd Avenue, Besant Nagar,
Chennai - 600 090.

+1cc to Mr.Dhanaram Ramachandran, Advocate SR.No.62772

W.P.No.25427 of 2021

RSV(CO)
GN(29/12/2021)