BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.03.2021
CORAM

THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P.(MD)No.4186 of 2021

Jharsanya Logistics Private Limited,
represented by its Managing Director/Authorised Signatory,
R.Chandrakala,
Mumbai-400 037. : Petitioner

Vs.

1.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
33, Siva Shanmugam Street,
Ground Floor, West Tambaram,
Chennai-600 045.

2.The Branch Manager,
Tamil Nadu Mercantile Bank Limited,
Verkizhambi Branch,
No.3-130/47B, Main Road,
Chanivilai, Verkizhambi,
Kanyakumari District. : Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to consider the petitioner's representations dated 08.10.2020 and 17.11.2020 for release of title deeds deposited with the Bank as security for the loans borrowed on behalf of the petitioner company enabling the petitioner to settle the loan borrowed on behalf of the other company, namely M/S.Three Roses Textiles Private Limited from the respondent Bank and the other creditors, who have supported the petitioner by giving a short term credit for discharging the other loans borrowed on behalf of the petitioner company.

For Petitioner :Mr.T.Villavan Kothai
For Respondents :Mr.A.R.M.Ramesh

ORDER

According to the petitioner, the petitioner is a Company represented by its Managing Director/Authorised Signatory. The Company has been into the business of textiles, logistics and infrastructure and in the course of its business, the Company has borrowed loan from the respondent Bank by way of equitable mortgage of the property owned by the Company. According to the Managing

Director, her husband died at a young age due to heart attack on 17.01.2019 and therefore, the business suffered a huge loss.

2.As the Company suffered huge loss, the petitioner was under grave pressure to settle the amounts borrowed from third parties and such settlement of loan amount is possible only by selling the properties and in that regard, the petitioner appears to have approached the respondent Bank officials for release of title deeds given as security for the loan obtained by the petitioner from the respondent Bank. According to the petitioner, there are two other companies, apart from the principal company represented by her and a separate valuable equitable mortgage has been given as security. The petitioner has also mentioned in the affidavit that the Bank has proceeded against the security assets of the Company by invoking the provisions of SARFAESI Act. According to her, the declared loan outstanding, as of now remain to be paid to the Bank, is Rs.1,84,67,356.08/-.

3.The grievance of the petitioner herein is that insofar as the loan obtained by the petitioner company is concerned, the liability has been discharged, but, it is not open to the Bank to retain the title deeds in respect of the loans to be payable by other two companies and therefore, the petitioner has approached the respondent Bank for release of the documents, namely, title deeds to enable the petitioner to sell all the properties to discharge all other loans. As there is no response to the representation, the petitioner is before this Court.

4.From the above factual narrative, it could be seen that the transactions between the petitioner and the respondent Bank is entirely within the realm of contractual relationship between the petitioner and the Bank. In a dispute of this nature, arising out of a contractual mutual obligation, the proper recourse for the petitioner is not to invoke the public law remedy, particularly, a constitutional remedy under Article 226 of Constitution of India. The petitioner whether having a right to return the documents deposited with the respondent Bank or the Bank having right to retain the documents in the circumstances of the case, cannot be a matter for adjudication by this Court in a Writ jurisdiction. In fact, the rights of rival claimants cannot be decided in a Writ jurisdiction for the simple reason that the adjudication would involve settlement of factual disputes and such dispute cannot be a matter of adjudication under Article 226 of Constitution of India. In any event, the respondent being a private Bank is not amenable to the Writ jurisdiction of this Court and also the claim of the petitioner as against the respondent Bank is entirely a private dispute and the remedy for the petitioner lies elsewhere and not before this Court.

5.In the above stated reasons, this Court finds that the Writ

Petition is not maintainable and therefore, the same is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

+1 CC to M/s.A.R.M.RAMESH, Advocate (SR-9282[F] dated 05/03/2021)

W.P.(MD)No.4186 of 2021

04.03.2021

NA(CO)
KB(22.03.2021) 3P 2C