BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.07.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD).No.15688 of 2019
and
W.M.P(MD).Nos.19890 and 19891 of 2019

S.Thilagasundari ... Petitioner

Vs.

1.The Chief Manager,
Repco Bank,
Regd. Office:33
North Usman Road,
T.Nagar,Chennai-600 017.

2.The Manager,
Repco Home Finance Ltd.,
Corporate Office at
No:2 (Old No.34&35) 3rd Floor,
Sardar Patel Road,Guindy,
Chennai-600 032.

3.The Branch Manager,
Repco Home Finance Ltd.,
No: 26, Ground Floor,
ARR Complex,
Devipattinam Road, Kenikarai,
Ramanathapuram-623 504.

4.S.K.T.Seenivasan ... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the 3rd respondent to disburse the full loan amount to the credit of the petitioner's Home Loan Account No:2031860000608 so as to enable her to complete the construction in Plot No.15 in S.No.53/3B of Pattinamkathan Group, Peravoor Hamlet, Katturani Village of Ramanathapuram Taluk.

For Petitioner	: Mr.D.Malaichamy
For Respondents 1 & 2	: Mr.S.Pala Ramasamy
For Respondent No.3	: Mr.B.Rajesh Saravanan
For Respondent No.4	: Mr.D.Balamurugapandi

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the third respondent to disburse the full loan amount to the credit of the petitioner's Home Loan account in order to enable her to complete the construction in the subject property.

2. The case of the petitioner is that the subject property originally belonged to her father who is the fourth respondent herein. He executed a registered settlement deed in favour of the petitioner on 19.02.2018 and thereby the petitioner became the absolute owner of the property.

3. The petitioner applied for a loan before the respondent bank and sought for a total loan for Rs.14,00,000/-(Rupees Fourteen lakhs only) in order to build a house in the property. The loan was also sanctioned and the settlement deed was given as a security to the respondent bank. The respondent bank have released a sum of Rs.5,60,000/-(Rupees Five lakhs and sixty thousand only) and by the time the balance loan amount was sanctioned, an objection was made by the fourth respondent. Based on the objection made by the fourth respondent, the bank did not disburse the balance loan amount to the petitioner. Aggrieved by the same, the present writ petition has been filed before this Court.

4. Heard Mr.D.Malaichamy, learned counsel appearing on behalf of the petitioner, Mr.S.Pala Ramasamy, learned counsel appearing on behalf of the respondents 1 &2, Mr.B.Rajesh Saravanan, learned counsel appearing on behalf of the third respondent and Mr.D.Balamurugapandi, learned counsel appearing on behalf of the fourth respondent.

5. In the considered view of this Court, the settlement deed has been executed in favour of the petitoiner on 19.02.2018 and it was registered in Doc.No.773/2018. A reading of the settlement deed shows that the fourth respondent has absolutely settled the property in favour of the petitioner and it is also stated that it is an irrevocable settlement deed. Admittedly this settlement deed is in force till date. There seems to be some misunderstanding between the petitioner and her father and the father issued a legal notice to the bank questioning the very settlement deed executed by him. The bank has acted upon the legal notice and is refusing to disburse the balance loan amount.

6. The document that was executed in favour of the petitioner does not automatically get cancelled or nullified just because an objection has been raised by the fourth respondent and he has sent a legal notice. A irrevocable settlement deed can be cancelled only by approaching a competent Civil Court. This document was executed on 19.02.2018 and the period that has been provided under the

Limitation Act is also over for questioning the said document. The title has vested in favour of the petitioner and therefore the petitioner is the absolute owner of the subject property. The objection made by the fourth respondent does not in any way take away the right or title of the petitioner in the subject property.

7. In view of the above, the respondent bank can act upon the mortgage created by the petitioner through deposit of title deed and proceed to process the application of the petitioner for disbursing the remaining loan amount, if the petitioner otherwise satisfies the requirements. There is absolutely no legal bar for the respondent bank to disburse the balance loan amount in favour of the petitioner.

8. This writ petition is disposed of with the above direction. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

+1 CC to M/s.B.RAJESH SARAVANAN, Advocate(SR-21607[F] dated 08/07/2021)

+1 CC to M/s.D.MALAICHAMY, Advocate (SR-21632[F] dated 08/07/2021)

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