



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.09.2021

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THE HONOURABLE MR.JUSTICE SETHILKUMAR RAMAMOORTHY

W.P(MD).No.16266 of 2021

V.Easwari

... Petitioner

Vs.

The Branch Manager,
Canara Bank,
Dhalavaipuram Branch,
Rajapalayam Taluk,
Virudhunagar District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent herein to return the jewels and documents mortgaged by the petitioner's husband Velsamy, within the stipulated period.

For Petitioner : Mr.M.Jothi Basu
For Respondent : Mr.N.Dilipkumar
Standing Counsel

ORDER

The petitioner seeks a direction for the return of jewellery and documents, which were subject matter of pledge or mortgage with the respondent Bank.

2. The petitioner states that her late husband was an agriculturist and that he availed of loans from the Canara Bank, Thalavaipuram Branch, Viruthunagar District. In connection with the aforesaid loans, the petitioner's husband had pledged jewels. In addition, a personal loan had been availed of by mortgaging properties.

3. The petitioner states that the jewel loans and personal loan were duly discharged. After discharging the relevant loans, the petitioner made a request to return the jewels and documents. In spite of making several requests and submitting a representation on 26.07.2021, it is stated that no action was taken. The present writ petition is filed in such facts and circumstances.

4. Mr.N.Dilipkumar, learned Standing Counsel, accepts notice on behalf of the respondent bank. On instructions, he submits that the relevant loans were duly discharged. However, as regards the jewel loan accounts, he states that the petitioner's husband had not made a nomination. Therefore, he submits that it is necessary that all the legal heirs provide an indemnity bond in favour of the bank. Moreover, he states that one of the daughters of the petitioner and



her husband predeceased him. Consequently, he states that it is necessary to provide a certificate from the relevant Village Administrative Officer with regard to her legal heirs.

5. Learned counsel for the petitioner submits that she is the nominee as regards the personal loan account. Therefore, he submits that there should be no difficulty in returning the original documents which were deposited with the bank by way of mortgage in relation to the personal loan.

6. The admitted position is that the jewel loan accounts and the personal loan account stand fully discharged. As such, the only question that remains for consideration is whether the petitioner is entitled to the return of the jewels or documents, as the case may be. If a valid nomination form was submitted in respect of the personal loan account, the bank should have no difficulty in handing over the documents deposited by way of security in relation to the said personal loan account to such nominee. As regards the jewel loan accounts, it is stated that there is no nominee, therefore, the petitioner should provide an indemnity bond, the Village Administrative Officer's certificate and a letter from all the legal heirs as called for by the bank.

7. Accordingly, WP.(MD)No.16266 of 2021 is disposed of with the following directions:

(i) The petitioner is permitted to submit a copy of the nomination form in respect of the personal loan account to the respondent bank within a period of 2 weeks. Even otherwise, the bank is directed to verify its records to ascertain whether a nomination form is available. If such nomination form is available, the bank is directed to take consequential action for the return of the title and other documents, which were subject matter of mortgage, to the nominee. In addition, if a memorandum of deposit of title deeds was registered with the relevant sub-registrar, necessary action should be taken for the cancellation thereof. The documents shall be handed over within two weeks from the date of receipt of the nomination form and the cancellation of the memorandum of deposit of title deeds, if any, shall be completed within four weeks thereafter.

(ii) As regards the jewel loan accounts, the petitioner and the other legal heirs are directed to provide the following documents to the bank within a period of 4 weeks from the date of receipt of a copy of this order:

(a) An indemnity bond executed by all the legal heirs.

(b) A certificate from the jurisdictional Village Administrative Officer with regard to the legal heirs of the



(c) A legal heir certificate.

(d) A disclaimer from the other legal heirs in case the jewels are to be handed over to the petitioner.

(iii) Upon receipt of all the aforesaid documents, the bank is directed to hand over the jewels within a period of 6 weeks from the date of receipt of the above mentioned documents.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Sbn

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.

To

The Branch Manager,
Canara Bank,
Dhalavaipuram Branch,
Rajapalayam Taluk,
Virudhunagar District.

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-28884[F] dated 13/09/2021)

+1 CC to M/s.M.JOTHI BASU, Advocate (SR-28927[F] dated 14/09/2021)

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