



W.P(MD)No.11385 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11385 of 2019

N.Vijayakumar

... Petitioner

Vs.

1.The Branch Manager,
Canara Bank,
Idayankudi,
Tirunelveli District.

2.N.Gopalakrishnan
(R2 is suo motu impleaded vide order
dated 22.07.2021)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents bank to return the pledged described jewels of the petitioner after receiving necessary undertaking from the petitioner by considering the representation dated 25.4.2019 of the petitioner.

For Petitioner : Mr.S.Siva Thilakar

For R1 : Mr.C.Karthik

For R2 : No appearance



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ORDER

Heard the learned counsel appearing for the petitioner and the learned standing counsel appearing for the Canara Bank.

2. Though the petitioner's brother was impleaded *suo motu* as second respondent, he has not chosen to enter appearance.

3. The petitioner's father late Natarajan pledged the petition mentioned jewels with the first respondent bank for availing loan. Natarajan passed away. The petitioner filed this writ petition seeking redemption of the pledged items. An interim order was passed on 22.07.2021 in the following terms:-

“Mr.N.Gopalakrishnan, S/o. P.Nadarajan, 15/5, Keelapallivasal Street, Thisayanvillai, Tirunelveli District, is suo motu added as second respondent in this Writ Petition.

2. It is seen from the counter affidavit and the typed-set of papers filed by the respondent Bank that the petitioner during the pendency of this Writ Petition had taken back the jewels that was pledged by his father and kept the share of the impleaded second respondent in the Bank to the tune of Rs.57,100/- (Rupees Fifty Seven Thousand and One Hundred only) and it has been retained by the second respondent. Subsequently, this was also informed to the second respondent. Hence, the brother of the petitioner has been added as the second respondent in this Writ Petition.

3. Issue notice and private notice to the impleaded second respondent returnable by 05.08.2021.



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4. In the meantime, the respondent Bank is directed to retain the amount of Rs.57,100/- (Rupees Fifty Seven Thousand and One Hundred only) without disbursing the same, until further orders are passed in this Writ Petition.

5. Registry is directed to post this case on 05.08.2021.”

Pursuant to the said interim order, jewelry has already been returned to the petitioner. The petitioner cleared the entire loan liability. Now the question that arises is whether the first respondent is entitled to retain the amount of Rs.57,100/-.

4. The learned counsel appearing for the petitioner would submit that this amount also should be returned to the petitioner.

5. I am unable to agree with the said plea. Admittedly, the second respondent is also one of the legal heirs of the deceased Natarajan. He is therefore having share in the pledged items. Since his share has been quantified, the said amount of Rs.57,100/- ought to be handed over to the second respondent alone. The second respondent will not have any share in the redeemed jewelry.

6. The Writ Petition is disposed of on these terms. No costs.

15.12.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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