



W.P.(MD).No.11647 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.08.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD).No.11647 of 2015

and

W.M.P.(MD)No.15730 of 2017

S.Soundaraperumal

... Petitioner

Vs.

1.The Branch Manager,
Canara Bank,
Ramnad Road Branch,
Madurai Town,
Madurai District.

2.U.Kavitha

... 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 1st respondent bank to return the original title deeds and other documents deposited by the 2nd respondent in respect of the property bearing door no.2/283, Gandhi Nagar, Rajakambiram Village, Y.Othakadai, Madurai, to the petitioner on his representation, dated 02.04.2015.

For Petitioner : Mr.M.Ponniah

For R1 : M/s.Vanitha



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ORDER

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The present writ petition has been filed seeking mandamus directing the first respondent bank to return the original title deeds and other documents deposited by the second respondent in respect of property bearing No.2/283, Gandhi Nagar, Rajakambiram Village, Y.Othakadai, Madurai.

2.According to the writ petitioner, the second respondent is the borrower from the first respondent bank. While the loan was subsisting, the second respondent appointed a power agent under a document, dated 18.03.2010. As per the recital in the said power deed, the intending purchaser has to repay the entire loan to the bank. The property was sold in favour of the writ petitioner on 11.04.2011. There is a specific recital in this sale deed that the petitioner is liable to pay the balance amount due to the first respondent Bank.

3.According to the learned Counsel for the petitioner, the petitioner has paid the entire dues to the first respondent bank and has



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completely discharged the loan amount on 27.03.2015. When the petitioner approached the first respondent bank for return of the original documents, the same was refused by the first respondent on the ground that some objections have been raised by the second respondent herein. Hence, the present writ petition is filed.

4.Though the second respondent has been served and the name is printed in the cause list, the second respondent has neither appeared in person nor engaged any Counsel.

5.The learned counsel for the first respondent has contended that there are exchanges of legal notice between the writ petitioner and the second respondent herein. Both of them had addressed legal notices to the first respondent bank objecting to the handing over of the documents. So, they are not in a position to decide the issue.

6.I have carefully considered the submissions made on the either side and perused the typed set of papers. From the typed set of papers, it



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can be seen that the second respondent has executed a power deed in favour of one Muthulakshmi on 18.03.2010 based upon which, a sale deed was executed in favour of the writ petitioner. A perusal of the registered sale deed indicate that the writ petitioner has to discharge the entire loan amount due to the first respondent herein. The learned Counsel for the first respondent herein admits that the writ petitioner has cleared the entire loan and as on today there is no charge over the property which was mortgaged by the second respondent with the first respondent bank. It has not been brought to the notice of the Court whether the second respondent has initiated any proceedings challenging the power deed or the sale deed, dated 11.04.2011 in favour of the writ petitioner. Already, 10 years have lapsed from the date of sale deed standing in the name of the writ petitioner.

7.In view of the above said circumstances, this Court is inclined to allow the writ petition. Hence, the writ petition is allowed. The first respondent bank is directed to hand over the original documents and other documents deposited by the second respondent to the writ



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petitioner. The first respondent has also directed to execute discharge receipt either in favour of the petitioner or in favour of the second respondent. The said exercise shall be completed within a period of 6 weeks from the date of receipt of a copy of the order.

8. With the above said observation, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No

Internet : Yes / No

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R.VIJAYAKUMAR ,J.

Tmg

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.

Order made in
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