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W.P.No.3661 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2023

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THE HON'BLE MR.JUSTICE M.DHANDAPANI

WP No.3661 of 2020

P.G.R. Associates,
Represented by its Partners

... Petitioner

vs.

1. The Deputy General Manager,
Canara Bank,
Regional Office,
Chennai – 1,
8th Floor,
524, Anna Salai,
Teynampet,
Chennai – 600 018.

2. Canara Bank,
Chennai Park Town Branch
Rep. by its Senior Manager,
No.4, Syden Hams Road,
Periamet,
Chennai – 600 003.

...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Mandamus directing the second respondent to
return all the Original Title Deeds to the petitioner which are mentioned
in the Petitioner letter dated 18.12.2019 sent by them to the respondents.

For Petitioner

: Mr. Om Prakash
for



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For Respondents : M/s.Ramalingam and Associates
: Mr.S. Kesavan for R1& R2

ORDER

This writ petition has been filed for a Mandamus seeking for a direction to the second respondent to return all the Original Title Deeds to the petitioner which are mentioned in the Petitioner's letter dated 18.12.2019 sent by them to the respondents.

2. It is the case of the petitioner Firm that they are constituted under the Deed of Partnership dated 15.04.1999, consisting of four partners and they have availed credit facilities from the 2nd respondent bank for running the said Firm. Further, for availing such credit facilities, various immovable properties, owned by the Firm, Partners and other family members were mortgaged. Though there were certain title deeds in the individual names of the partners, but the same pertain to joint family properties. Also it is stated that the partners of the Firm are none other than the brothers. While so, after the demise of the partners' father viz., P.G. Rajappa on 25.10.2007, a family arrangement by way of document was executed on 28.04.2011 between the family members, thereby each partner got their share of apportionment. Subsequently,



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one of the partners viz., R.Balachandran, who is the brother of other partners retired from Partnership and the said fact was duly informed to the bank. Thereafter, mother of the said partners died on 21.05.2017. It is the case of the petitioner that their mother executed a Will earlier on 15.04.2017 and as per the said Will, various properties provided as collateral security to the 2nd respondent bank and subsequently, the loan amount was settled and the 2nd respondent bank have also issued “No Due Certificate” to them. Hence, they have addressed a letter dated 18.12.2019 to the 2nd respondent seeking for return of various Title Deeds, earlier submitted by them. As there was no response from the side of the respondents, this writ petition has been filed seeking for appropriate directions.

3. Learned counsel for the petitioner submitted that the existing partners of the petitioner-Firm have cleared the outstanding payments and the 2nd respondent bank had also issued “No Due Certificate”. In spite of discharge of loan amount, the 2nd respondent / bank has not returned the original title deeds, which were earlier provided as collateral security. Hence, it would suffice, if this Court issues directions to the 2nd respondent to release the said Title Deeds, after issuing notices to all the Legal Heirs of the deceased P.G. Rajappa, within a time frame to be fixed



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by this Court.

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4. Reiterating the counter affidavit filed by the respondents, Mr.S.Kesavan, learned counsel for the respondents 1 and 2 submitted that at the time of availment of loan facilities from the 2nd respondent bank, Partners of the petitioner Firm have created equitable mortgage by deposit of title deeds standing in their individual's name as well as joint family properties of the Partners. Further, he submitted that R.Balachandran, one of the Partners, who retired from the Partnership Firm was not relieved from his personal guarantee as well as mortgage, thereby, his no objection to release title deeds is a requisite one. He fairly submitted that though prevailing Partners of the petitioner Firm have discharged the said loan amount, however, only on receipt of No Objection Certificate from all the Legal Heirs of the deceased P.G.Rajappa, they are in a position to release the title deeds. On that score, this Court may issue appropriate directions to the petitioner.

5. Heard, learned counsel on both sides and perused the materials placed on record.

6. Admittedly, the petitioner Firm obtained loan from the 2nd respondent bank and for that loan, Partners have mortgaged Title Deeds of joint family properties as well as their individual property. On a bare



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perusal of records reveal that R.Balachandran, one of the Partners as well as the brother of said Partners have retired from the petitioner Firm. It is an undisputed fact that the said loan have been settled by the existing partners. Having settled the loan, and seeking for return of Title Deeds made by the petitioner to the 2nd respondent is a reasonable one and therefore, it is clear that the respondents have to act upon the said request.

7. In view of the above, this Court directs the 2nd respondent to send proper notices to all the Legal Heirs of the deceased P.G.Rajappa intimating them the time within which to produce their Objections or otherwise for release of the said Title Deeds, within a period of four weeks from the date of receipt of a copy of this order. On receipt of the response within the time prescribed in the said letter, the 2nd respondent is further directed to release the said Title Deeds to the concerned person with due acknowledgement, within a period of two weeks from the date of receipt of the responses. It is made clear that if any one the Legal Heirs of the deceased P.G. Rajappa does not respond, there would be no bar for the 2nd respondent to release the said Title Deeds, within the stipulated period.

8. With the aforesaid directions, this writ petition is disposed of.



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No costs.

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Internet : Yes/No

Index: Yes/No

Speaking order/Non-speaking order
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To

1. The Deputy General Manager,
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2. The Senior Manager,
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M.DHANDAPANI, J.

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