



W.P.No. 18871 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **31.01.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No. 18871 of 2019

Mr. J. Ramkumar
son of Mr. Jayaseetharaman,
No. 2/13, North Street, Aladi,
Virudhachalam Taluk,
Cuddalore District
Tamil Nadu,
Represented by his GPA,

Mr. R. Bharathi,
Son of Mr.J. Ramkumar,
No. 2/13, North Street, Aladi,
Virudhachalam,
Cuddalore,
Tamil Nadu.

... Petitioner

Vs

1. The Assistant General Manager,
The Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai – 600 002.
2. The Regional Manager,
The Indian Overseas Bank,
Regional Office,
42/1, Brahmin Street,
Mudaliarpet,
Puducherry – 605004.



W.P.No. 18871 of 2019

3. The Branch Manager,
The Indian Overseas Bank
73 Ward, Li Middle Street,
Aladi, Virudhachalam Taluk
Cuddalore District,
Tamil Nadu.

4. Mrs. Sankari
Respondents

...

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of a Writ of Mandamus directing the third respondent to dispose of the representation dated 01.04.2019 given by the petitioner herein.

For the Petitioner : Mr. Jemmy Vasanth

For the Respondents : Ms. Anand Gomathy
for R1 to R3

ORDER

The writ petition has been filed in the nature of mandamus seeking a direction particularly to the third respondent, the Branch Manager, the Indian Overseas Bank at Virudhachalam Taluk in Cuddalore District, to dispose of the representation dated 01.04.2019 given by the petitioner herein.



W.P.No. 18871 of 2019

2. There are two petitioners J.Ramkumar and his son R. Bharathi. Originally J. Ramkumar the petitioner had entered into a partition deed with the mother of the fourth respondent. The mother was called Vijayalakshmi. The partition deed was registered on 29.05.2009. The very effect of partition deed is to effect complete severance between the petitioner J.Ramkumar and his sister Vijayalakshmi. Neither of them can claim any right in the property not allotted to them. Consideration for allotment is the relinquishment of the property which is allotted to the other party under the partition deed. It is a mutual agreement between the two parties/brother and sister.

3. Thereafter, the second petitioner R. Bharathi had, for his educational purposes, the necessity to obtain a personal loan. The petitioner had approached the third respondent the Indian Overseas Bank at Virudhachalam seeking educational loan on behalf of the second petitioner/son. Naturally collateral security will have to be given. The collateral security available with the petitioner was the partition deed. It must also be mentioned that at the time of the execution of the partition deed, the original partition deed was



W.P.No. 18871 of 2019

retained by the petitioner J.Ramkumar and it is informed that the certified copy of the same or what may be called the registration copy was handed over to the sister Vijayalakshmi. Since there were properties in the name of Vijayalakshmi in the partition deed, though she had no right over the properties of Ramkumar, the bank authorities had called upon her to execute what they now term as Deed of Guarantee. That has now lost its significance because the petitioner Ramkumar has settled the loan, discharged and repaid the entire loan amount. There are no amounts due and payable towards the loan. Therefore the issue of Guarantor does not survive anymore. The only issue is return of the original partition deed.

4. It is stated by the learned counsel for the respondent 1 to 3 that they had received an email from the fourth respondent who happens to be the daughter of Vijayalakshmi stating that the documents should not be returned. But the primary borrower is only the petitioner herein. He had deposited the original partition deed. After discharge of loan he is entitled for return of the documents.



W.P.No. 18871 of 2019

5. I do not find the arguments advanced to the contrary appealing to me. There is an obligation on the third respondent to, without hesitation, return the documents and thereafter if there are grievances raised by any party then they can take it up individually against the petitioner herein.

6. A direction is therefore issued that the third respondent should, on or before 10.02.2023, handover the original partition deed dated 29.05.2009 to the petitioner, J. Ramkumar on proper identification and undertaking that he is receiving back the original Partition Deed and that for any litigation initiated by any person, he alone will be answerable and the bank will not be responsible. Before returning, it is only appropriate that the memorandum of deposit of title deeds reflected in the partition deed is cancelled by the third respondent since the loan had been discharged in entirety.

7. Holding as above, the writ petitions stands allowed.

31.01.2023

Index: Yes/no
mrn
To

5/7



W.P.No. 18871 of 2019

WEB COPY

1. The Assistant General Manager,
The Indian Overseas Bank,
Central Office,
763, Anna Salai,
Chennai – 600 002.
2. The Regional Manager,
The Indian Overseas Bank,
Regional Office,
42/1, Brahmin Street,
Mudaliarpet,
Puducherry – 605004.
3. The Branch Manager,
The Indian Overseas Bank
73 Ward, Li Middle Street,
Aladi, Virudhachalam Taluk
Cuddalore District,
Tamil Nadu.



WEB COPY



W.P.No. 18871 of 2019

C.V.KARTHIKEYAN, J.
(mrn)

W.P.No. 18871 of 2019

31.01.2023