



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED **20.02.2023**

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No. 3476 of 2022

And

W.M.P.No. 3595 of 2022

1. J.Ramila James
2. S.Vidya Selvarathinam ... Petitioners

..Vs..

The Assistant Manager
Bank of Baroda (Vijaya Bank before Amalgamation)
ZOSARB, 1st Floor,
No.47, Thiyagaraya Road,
T.Nagar, Chennai – 600 017. ... Respondent

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondent to release the original title deed pertaining to the property in No.68, Periyanna Maistry Street, Periamet, Vepperi, Chennai – 600 003.



2

For Petitioners

:: Mr. D.G.Hariprasad
for Mr. B.Prasanna Vinoth

For Respondent

:: Mr. Srinath Sridevan
Standing Counsel
for M/s. Ramalingam & Associates

ORDER

The Writ Petition has been filed in the nature of Mandamus seeking a direction to the respondent / Assistant Manager, Bank of Baroda (Vijaya Bank before Amalgamation) at T.Nagar, Chennai, to release the original title deed pertaining to the property bearing Door No.68, Periyanna Maistry Street, Periamet, Vepperi, Chennai – 600 003.

2. This property belonged to the brother of the petitioners herein by name A.C.S.Chellappa, who died on 09.01.2010. He also had the misfortune of his wife Vijaya Bai Chellappa predeceasing him. They did not have any children. The petitioners herein in their capacity as sisters had also filed O.P.No. 343 of 2010 seeking Letters of Administration to administer his properties and a learned Single Judge of this Court had granted the same by an order dated 15.06.2016. Armed that such Letters of Administration, the petitioners had approached the respondent seeking the original documents.



3. It is stated in the counter affidavit, rather in the additional affidavit, that the title deed was with the bank when it was originally Vijaya Bank. This was as on 26.12.2014. The document had been, according to the deponent of the affidavit, the present Chief Manager of Bank of Baroda, handed over to the erstwhile counsel for the bank to prefer a petition before the Debt Recovery Tribunal. Thereafter a petition under Section 14 of the SARFAESI Act was preferred before the Chief Metropolitan Magistrate. The document then disappeared.

4. It is not known whether the document still remains with the Debt Recovery Tribunal or was transferred to the Chief Metropolitan Magistrate Court at Chennai or was lost in transit.

5. At any rate, the document is not available today or rather is not traceable today.

6. The grievance of the learned counsel for the petitioner is that the petitioners have been made to run from pillar to post and the respondent had not at all responded to any communications.



7. However, today Mr.Srinath Sridevan, learned Senior Counsel who had been instructed to appear on behalf of the respondent addressed the following queries which had been earlier raised by this Court:-

“(i) When did they find that the documents deposited were found missing?”

“(ii) What steps have been taken to recovery the documents?”

“(iii) If it is a definite fact that the documents are actually missing, what disciplinary proceedings have been taken against that particular official who was responsible for missing of the documents?”

8. An affidavit had been filed and supporting documents have also been filed. It is stated that the document has been found to be missing and it is not known whether it had been missed in the record section of the Debt Recovery Tribunal or in the Court of the Chief Metropolitan Magistrate or had been lost in transit. However, it is held out by the learned



Senior Counsel that if at all the petitioners take steps to actually issue publication or file a complaint with respect to loss of the document, the respondent would assist them.

9. I hope this change in attitude will appease the petitioners. A responsible officer of the respondent should be specifically deputed for this particular purpose to assist the petitioners herein and address their grievances. The petitioners are senior Citizens and at this advanced age, they would be certainly frustrated about the missing of the document, according to them, an important document and the loss of the document would certainly cause much grievance to them.

10. Let me call upon the respondent to put a dedicated officer to address the issues so far as this particular case is concerned. Such officer must give necessary directions as to how to proceed further with respect to a document which has been lost, the steps to be taken to announce to the general public that the document is lost and if any transactions are done on the basis of the said documents, the petitioners would not be responsible nor should be held responsible. Let the respondent take that particular step forward.



11. The petitioners may have an interaction with the said official appointed by the respondent and proceed further in accordance with the rules or regulations and the procedure with respect to loss of documents and set right their records.

12. The issue of costs to be granted came up for consideration but I would defer from imposing costs on the respondent in the solemn hope that the respondent would extend an arm to the petitioners in their endeavour to regularise the lost documents in manner known to law either by advertisement or by giving police complaint or by taking any other steps as deemed proper and necessary.

13. With the aforementioned observations, this Writ Petition stands disposed of. No order as to costs. Consequently, connected Civil Miscellaneous Petitions are closed.

20.02.2023

vsg

Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



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7



To

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ZOSARB, 1st Floor,
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8

C.V.KARTHIKEYAN, J.,

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