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W.P.No.11879 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.11879 of 2017

A.L.Abdulkalam Azad
No.2B, J.K.Complex, City Baby Street,
Sangu Pattai, Perambalur-621 212

...Petitioner

-Vs-

1. The Branch Manager, State Bank of India,
Vengadasapuram, Perambalur-621 212.

2. A.L.Jawaharlal

...Respondents

(R2 impleaded vide Order dated 26.10.2022 made in WMP.26733/2022 in WP.11879/2017 by NSKJ)

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, to direct the respondent to hand over the document (title deeds) deposited with the respondent bank to secure the Term Loan Rs. 65,00,000/- by subrogating the rights of the bank in favour of the petitioner and pass other consequential orders if required.

For Petitioner : Mrs.V.Srimathi

For Respondents :
(for R1) : Mr.K.Chandrasekaran
(for R2) : No Appearance



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ORDER

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The relief sought in the present writ petition is to direct the first respondent/Bank to handover the documents (title deeds) deposited with the respondent Bank to secure the Term Loan of Rs.65,00,000/- (Rupees Sixty-Five Lakhs Only) by subrogating the rights of the Bank in favour of the petitioner and pass other consequential orders if required.

2.The petitioner admittedly borrowed a sum of Rs.40,00,000/- (Rupees Forty Lakhs Only) from the Union Bank of India and the loan was subsequently taken by the State Bank of India, Perambalur, who is the first respondent herein. A term loan of Rs.65,00,000/- (Rupees Sixty-Five Lakhs Only) was sanctioned which included the interest amount for non payment of borrowed Rs.40,00,000/-(Rupees Forty Lakhs Only).

3.The property which belonged to the petitioner and his brother was deposited as security to the loan sanctioned by the first respondent Bank. It is not in dispute that the entire loan amount has been cleared and the first respondent Bank, as per the Transfer of Property Act, has to return the deposited document. Since the Bank failed to the return the document, the petitioner is constrained to move the present writ petition.



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4.The learned counsel for the petitioner made a submission that no doubt a Civil Litigation is pending between the petitioner and his brother. However, the said litigation is no-way connected with the first respondent Bank and therefore, they are duty bound to return the original title deeds deposited with them since the loan dues were cleared in entirety.

5.The learned counsel appearing on behalf of the first respondent Bank raised an objection by stating that the mortgage loan was granted admittedly in the name of the petitioner and his brother jointly and thus, without consulting the brother of the writ petitioner, the Bank is not in a position to release the documents. In the event of any claim by the brother of the petitioner, the Bank would not be in a position to give an appropriate answer and thus, in the event of submitting a letter of consent from the brother of the petitioner, the Bank will release the documents without any undue delay.

6.The brother of the petitioner has been impleaded as second respondent during the pendency of the writ petition. However, he has not responded to the Notice and none appeared on behalf of the second



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respondent. Admittedly, a civil litigation is pending between the petitioner and his brother/second respondent. In such circumstances, the Bank has to act by following the procedure which would be in compliance to the Rules of Natural Justice. An opportunity is to be provided to the second respondent/brother to raise his objections, if any, for return of documents to the petitioner. If at all, the second respondent raises any objection, then the Bank need not return it and act as per the law. If there is no response from the second respondent even after receiving the Notice which is to be issued by the first respondent Bank, then the Bank may take a decision to return the documents to the petitioner, enabling the parties to resolve the litigations in the manner known to law.

7.In view of such circumstances, the first respondent/State Bank of India is directed to issue a Notice, setting out all the facts and details and providing an opportunity to the second respondent to raise his objections for the return of documents to the writ petitioner. The Bank shall ensure that the Notice issued has been acknowledged by the second respondent. The petitioner is at liberty to furnish the correct address of the second respondent, enabling the Bank to send the Notice. A time limit is to be prescribed to raise the objections, if any, by the second respondent.



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Thereafter, the first respondent Bank shall take appropriate action, subject to objections if any raised by the second respondent, and act accordingly.

8. With these observations, the writ petition stands **dismissed**. No costs.

17.03.2023

(sha)
Index : Yes
Speaking Order
Neutral Citation : Yes

To

The Branch Manager,
State Bank of India,
Vengadasapuram,
Perambalur-621 212.



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S.M.SUBRAMANIAM. J.,

(sha)

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