



W.P.(MD)No.15510 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.10.2023

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.(MD)No.15510 of 2020
and
W.M.P.(MD)No.13018 of 2020

S.Rathna Devi

.. Petitioner

Versus

1.The Senior Manager,
Indian Bank, Main Branch,
Dr.Besant Road,
Kumbakonam - 612 001.

2.The Sub Registrar (Joint 1),
Court Road, Kumbakonam - 612 001.

3. M.Hariharan

4.M.Dhanalakshmi
[R3 and R4 are *suo motu* impleaded vide Court
order dated 09.02.2021]

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1st respondent to cancel the Equitable Mortgage (MOD) registered before the 2nd respondent bearing Document No.2311 of 2005, dated 4th July 2005 and consequently, return the original parent document dated 15.02.1999, registered as Document No.434 of 1999 in the Office of the District Register Joint 1, Tanjore, to the petitioner.



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For Petitioner : Mr.V.Nandha Kumar
For R1 : Mr.M.Senthilkumar
For R2 : Ms.S.Jeyapriya
Government Advocate
For R4 : Mr.G.Mohan Kumar

ORDER

This Writ Petition has been filed for issuance of Writ of Mandamus, directing the first respondent to cancel the Equitable Mortgage (MOD), registered before the second respondent and consequently, return the original parent documents to the petitioner.

2. Heard the learned counsel appearing for the parties.

3. The case of the petitioner is that Sri Vasavi Traders availed a loan with the first respondent Bank and the loan account was maintained in the name of 'Sri Vasavi Traders' and 'M/s.Lakshmi Traders' in two independent loan accounts. The Partnership Firms were run by the father and brother of the petitioner, who had secured the loans by executing equitable mortgage deed and depositing of original documents of title. The father and brother of the petitioner were the signatories to the Mortgage. The Equitable Mortgage was also duly registered on the file of the second respondent in Document No.2311



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4. The further case of the petitioner is that the loans were discharged in the year 2009 and in spite of the same, the first respondent Bank did not cancel the Equitable Mortgage and return back the original parent documents to the petitioner. Aggrieved by the same, the present Writ Petition has been filed before this Court.

5. The learned Standing Counsel appearing on behalf of the first respondent Bank submitted that the loan amounts have been discharged and there is no dispute with regard to the same. However, insofar as handing over the original parent documents are concerned, there is some dispute between the family members and therefore, the first respondent Bank is not in a position to hand over the documents to the petitioner.

6. In reply to the above submission, the learned counsel for the petitioner submitted that it will suffice if the first respondent cancels the Equitable Mortgage registered before the second respondent and issues a No Due Certificate. The first respondent can continue to retain the original documents and hand it over to the concerned party, after the dispute is resolved between the parties. Therefore, it was contended that the second portion of the relief sought for by the petitioner, is not pressed for the present.



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7. In the light of the above submissions, there shall be a direction to the first respondent Bank to cancel the Equitable Mortgage and issue a No Due Certificate. The first respondent can continue to retain the original documents and it shall be returned after the dispute is resolved among the family members of the petitioner. This process shall be completed by the first respondent Bank within a period of four weeks from the date of receipt of a copy of this order.

8. This Writ Petition is disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
smn2
To

05.10.2023

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N.ANAND VENKATESH, J.

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