



WP(MD)No.19880 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 16.10.2023

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THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

W.P.(MD)No.19880 of 2020

V.David Muthuraj

...Petitioner

/Vs./

1.The Regional Manager,
State Bank of India,
Rbo Five, North Cross Street,
G.K.N.Building, Nagercoil,
Kanyakumari District.

2.The Branch Manager,
State Bank of India,
Thadikkarankonam Branch,
Kanyakumari District.

. ...Respondents

PRAYER:- Petition - filed under Article 226 of the Constitution of India, to issue a Writ of mandamus directing the 2nd respondent to return back the original document in Doc.No.1607 of 1950 dated 07.09.1950 deposited for the purpose of loan in No.SL 01590006125 with the 2nd respondent bank.

For Petitioner : Mr.V.S.Kishore Kumar

For Respondents : Mr.H.Arumugam



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ORDER

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This writ petition has been filed for issuance of writ of mandamus, directing the second respondent bank to return back the original document in Document No.1607 of 1950 dated 07.09.1950 deposited by the petitioner for the purpose of securing loan from the second respondent bank.

2. When the matter was taken up for hearing on 09.10.2023, this Court passed the following order:-

“This Writ Petition has been filed seeking for issuance of a Writ of Mandamus directing the second respondent Bank to return back the original document, that was deposited by the petitioner at the time of taking loan from the second respondent Bank.

2.Heard Mr.V.S.Kishore Kumar, learned Counsel appearing for the petitioner and Mr.H.Arumugam, learned Counsel appearing for the respondents.

3.The case of the petitioner is that loan was issued in favour of his father by the second respondent and the petitioner executed a collateral security for that loan. Since the loan was not repaid back, the Bank sought to adjust the same from the deposit, that was standing in the name of the petitioner. A suit was also filed by the Bank for recovery of the amount and the suit was decreed and the petitioner has filed an appeal in A.S.No.21 of 2015. At that point of time, an attempt was made to settle the dispute and the entire amount



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was repaid back to the Bank.

4.The petitioner was expecting the original settlement deed, that was given as a security, to be returned back. However, the document was never returned. The petitioner made a representation in this regard to the second respondent and the second respondent Bank did not give any response. The further case of the petitioner is that he received a communication from the second respondent to the effect that the loan was granted only based on the term deposit made by the petitioner. That apart, the document, that was given as a collateral, was also missing. It is under these circumstances, the present Writ Petition has been filed before this Court.

5.The learned Counsel for the respondent Bank submitted that he received oral instructions to the effect that the document has been returned back to the petitioner.

6.However, the learned Counsel for the petitioner wants to take instructions in this regard and report to this Court.

7.The learned Counsel for the respondent Bank shall take written instructions from the Bank and in the meanwhile, the learned Counsel for the petitioner shall also take instructions.

8.Post this matter under the caption “for passing further orders” on 16.10.2023.”

3. When the matter was taken up for hearing today, the learned counsel for the second respondent bank produced written instructions received from the bank. On going through the same, it is seen that the bank has taken a stand that



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the alleged document was not taken as collateral security for granting loan in favour of the petitioner and that the document in question is not available with the respondent bank.

4. In the light of the above stand taken by the respondent bank, it is clear that the original document in Document No.1607 of 1950 dated 07.09.1950 is not available as on today either with the petitioner or with the second respondent bank. The respondent bank has also taken a stand that this document was not taken as security towards any loan and that for the loan that was given in favour of the petitioner, only the fixed deposit was taken as security.

5. Accordingly, there shall be a direction to the second respondent bank to issue a letter in favour of the petitioner stating that they are not in possession of the settlement deed registered as Document No.1607 of 1950 dated 07.09.1950. On receipt of the same, the petitioner is directed to give a complaint before the concerned jurisdictional police station seeking for missing certificate. On receipt of the complaint, the concerned jurisdictional police shall issue the non traceable certificate in line with the Circular of Director General of Police/Head of Police Force, Chennai-4 in RC.No. 2029209/General.



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1(1)/2022, dated 01.04.2022. This process shall be completed by the jurisdictional police within a period of four weeks from the date of receipt of the complaint from the petitioner.

6. This writ petition is disposed with the above directions. No costs.

16.10.2023

NCC : Yes/No
Internet : Yes/No
Index : Yes/No
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TO:-

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Kanyakumari District.

2.The Branch Manager,
State Bank of India,
Thadikkarankonam Branch,
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N.ANAND VENKATESH, J.

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Order made in
W.P.(MD)No.19880 of 2020

Dated:
16.10.2023