



W.P.(MD) No.18854 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2023

CORAM:

**THE HON'BLE MR.SANJAY V.GANGAPURWALA,
CHIEF JUSTICE**

and

THE HON'BLE MR.JUSTICE P.VADAMALAI

**W.P.(MD) No.18854 of 2023
and WMP(MD) No.15663 of 2023**

V.Rajarathinam

... Petitioner

-VS-

Indian Overseas Bank
Rep. by its Bank Manager,
No.56B/4, S.No.515/200
Bus Stand Road, Udangudi
Tuticorin 628 203

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Mandamus to direct the respondent to release the original document of the residential property which was mortgaged with the respondent vide MoD Doc. No.1851/2013 dated 30.08.2013 and execute a discharge deed in respect of the CC loan account.



W.P.(MD) No.18854 of 2023

WEB COPY

For Petitioner : Ms.U.Nirmala Rani

For Respondent : Mr.N.Dilipkumar

ORDER

**[Order of the Court was made by
The Hon'ble The CHIEF JUSTICE]**

We have heard Ms.U.Nirmala Rani, learned counsel for the petitioner and Mr.N.Dilipkumar, learned counsel for the respondent Bank.

2. The matter was settled in Lok Adalat. The petitioner was required to pay the entire outstanding amount, as settled, within three instalments. The petitioner paid the first two instalments. However, did not pay the third instalment of Rs.8,80,000/-. The said amount of Rs.8,80,000/- was to be paid on or before 31.12.2021. The learned counsel for the petitioner submits that just prior to the payment of third instalment, the petitioner was down with Pneumonia, as such he could not approach the bank and also a representation was made on 14.09.2022.



W.P.(MD) No.18854 of 2023

WEB COPY

3. The contention of the petitioner herein is that a property offered for a mortgage of one loan cannot be retained by the bank as a security for another loan.

4. The learned counsel for the bank submits that even today, the bank is ready to settle the account of the petitioner, if the petitioner pays Rs.10,00,000/- (Rupees ten lakhs only).

5. The offer of the bank appears to be quite reasonable. It is for the petitioner to accept the same.

6. The petitioner shall pay the amount of Rs.10,00,000/- (Rupees ten lakhs only) to the bank within four weeks from today, as it is accepted by the bank.

7. In view of the above, upon the payment of Rs.10,00,000/- by the petitioner to the bank within four weeks from today, the bank is directed to issue 'no due certificate' to the petitioner and release the documents in favour of the



W.P.(MD) No.18854 of 2023

WEB COPY

petitioner. The writ petition stands disposed of. However, there is no order as to costs. consequently connected Miscellaneous Petition is closed.

[S.V.G., CJ.]

[P.V.M, J.]

28.08.2023

NCC : Yes / No

Index : Yes / No

RR



WEB COPY



W.P.(MD) No.18854 of 2023

THE HON'BLE THE CHIEF JUSTICE
and
P.VADAMALAI, J.

RR

W.P.(MD)No.18854 of 2023

28.08.2023