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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM:

THE HON'BLE MR. JUSTICE G.K. ILANTHIRAIYAN

W.P. No.1990 of 2021

Sumathi Sivakumaran ... Petitioner

vs.

1. Indian Bank,
Rep. by its Manager,
E.R.A.Puram Branch,
No.9, First Trust Link Street,
Mandavelipakkam,
Chennai-600 028.

2. The Superintendent of Police,
CBI, ACB, Chennai. ... Respondents

Prayer : Writ Petition is filed under Article 226 of Constitution of India to issue a writ of Mandamus directing the respondent to return all the original title deeds/documents and other connected documents pertaining to the property being a vacant land situated in Padur Village, Comprised in S.No.298/2 and Patta No.57, measuring an extent of 17.50 cents (7618 Sq.ft) situated within the Registration District of Chengalpattu and Sub Registration District of Thiruporur to the petitioner.

For Petitioner : Mr.Murali Krishnan

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ORDER

This writ petition has been filed for direction directing the first respondent to return all the original title deeds and all other connected documents pertaining to the property comprised in S.No.298/2 and Patta No.57 admeasuring 17.50 cents situated at Thiruporur, Chengalpattu District.

2. The petitioner's husband is the owner of the subject property and he applied for loan from the first respondent by mortgaging the subject property. However, the petitioner's husband never executed any loan agreement and not executed any letter of acknowledgement for deposit of title deeds. However, the first respondent credited loan amount in the name of the petitioner's husband. Thereafter, the petitioner's husband itself withdraw the entire loan amount. Thereafter, the first respondent initiated proceedings under SARFAESI Act, 2002 to recover the said loan amount from the petitioner's husband.

2.1. Meanwhile, the petitioner's husband died and his signature was misused by the Manager of the first respondent bank viz., Sridharan. Therefore, the General Manager of the first respondent bank has lodged a

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complaint as against the Manager of the first respondent bank before CBI, Chennai. The CBI had also registered a case bearing FIR.No.RC MA1-2010. After the demise of the petitioner's husband there was settlement between the petitioner and the first respondent in RA(SA).No.103 of 2014 in S.A.No.225 of 2012 dated 28.02.2017. Accordingly, the first respondent has agreed to withdraw all the cases filed and pending against the petitioner and undertakes to report full settlement before the DRT-III, Chennai in S.A.No.225 of 2012 and O.A.No.93 of 2010 before the DRT-I, Chennai as full settlement. The entire original documents and photo copies of the documents listed along with memo are now lying with the CBI and the respondent shall obtain the same and hand over the same to the petitioner or her power agent in respect to the subject property. Further, the mortgage and other charges created over the subject property thereby revoked.

3. Therefore, this court suo motu impleaded the 2nd respondent as party to this writ petition. Now the entire trial has been over in C.C.No.02 of 2012 on the file of the IX Additional Special Judge for CBI Cases, Chennai and the Manager of the first respondent bank was convicted and sentenced to imprisonment. The original documents of the subject

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properties and other relevant documents were marked before the trial court. Already there was a settlement arrived between the petitioner and the first respondent in RA(SA).No.103 of 2014 in S.A.No.225 of 2012 dated 28.02.2017. Accordingly, the entire loan amount was paid and the mortgage of the subject property was also cancelled. Further, the first respondent agreed to return all the original documents to the petitioner.

4. Therefore, the 2nd respondent is directed to take back the original documents in respect of the petitioner's subject property along with other related documents from the Trial Court and hand over the said documents directly to the petitioner. On the application to be submitted by the 2nd respondent, the Trial Court i.e., IX Additional Special Judge for CBI Cases, Chennai is directed to return all the original documents and other related documents in respect of the subject property stands in the name of the petitioner to the second respondent and in turn the second respondent is directed to hand over the same to the petitioner. It is made clear that the second respondent is directed to file appropriate application before the Trial Court within a period of two weeks from the date of receipt of copy of this order. The trial Court i.e., IX Additional Special Judge for CBI Cases, Chennai is directed to return all the original

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documents forthwith, without ordering any notice to any party. The Trial Court is further directed to hand over all the original documents after substituting certified copies of the said documents. Further, the petitioner is directed to co-operate with the 2nd respondent while filing such application before the Trial Court for return of original documents.

5. With the above direction, this writ petition is disposed of. No costs.

14.06.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-Speaking Order
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Note : Issue Order copy on 09.07.2024

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G.K.ILANTHIRAIYAN, J.

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To

1. The Manager,
Indian Bank,
E.R.A.Puram Branch,
No.9, First Trust Link Street,
Mandavelipakkam,
Chennai-600 028.

2. The Superintendent of Police,
CBI, ACB, Chennai.

3. IX Additional Special Judge for CBI Cases,
Chennai

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