



W.P.No.10462 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2024

CORAM :

THE HON'BLE MR. JUSTICE S.S.SUNDAR
AND
THE HON'BLE MR.JUSTICE N.SENTHILKUMAR

W.P.No.10462 of 2024

M.Jagadeesan .. Petitioner

v.

1. The Chief Manager
Indian Bank
254-260, Avvai Shanmugam Salai
Pudupet, Gopalapuram
Chennai 600 014
2. The Authorized Officer
Stressed Asset Recovery Management
Indian Bank, Ethiraj Salai
Chennai 600 008
3. The Branch Manager
Indian Bank
Kodambakkam Branch
347, Arcot Road
Kodambakkam
Chennai 600 024

.. Respondents



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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the 3rd respondent to consider the petitioner's representations dated 9.1.2024 and 12.2.2024 for return of the original title documents pertaining to his property, measuring a total extent of 11 cents in Survey No.1/1 of Paleripattu village, Avadi, now Plot No.464, Door Nos.40 and 43, III Street, Kamaraj Nagar, Avadi, to the petitioner, within the time fixed by this Hon'ble Court.

For Petitioner :: Mr.A.E.Ravichandran

For Respondents :: No appearance

ORDER

(Order of the Court was made by S.S.SUNDAR,J.)

This writ petition is filed for issuance of a mandamus to the 3rd respondent Bank to consider the petitioner's representations dated 9.1.2024 and 12.2.2024 for return of the original title documents pertaining to his property, measuring a total extent of 11 cents in Survey No.1/1 of Paleripattu village, Avadi, now Plot No.464, Door Nos.40 and 43, III Street, Kamaraj Nagar, Avadi, to the petitioner, within the time fixed by this Hon'ble Court.



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2. Brief facts that are necessary for the disposal of this writ petition are as follows:-

(a) The petitioner is the owner of house site and building bearing Door Nos.40 and 43 in Third Street, Kamaraj Nagar, Avadi, Chennai. It is stated that the petitioner along with his brother and sister are the owners of the properties and the same came to their hands after the death of their parents. It is the case of petitioner that his parents offered the properties as collateral security by executing a Memorandum of Deposit of Title Deeds in respect of the properties. The 3rd respondent filed O.A.No.635 of 1998 before the Debts Recovery Tribunal-I, Chennai, which was transferred on bifurcation to Debts Recovery Tribunal-II and renumbered as O.A.No.296 of 2007 for recovery of a sum of Rs.36,28,630.50p. It is admitted by the petitioner that his parents were shown as defendants in the OA proceedings and the properties of his parents were shown as Schedule 'C' and 'F'.

(b) It is the case of petitioner that his parents are not the beneficiaries of the term loan and his parents came to know about the mortgage only after filing of the original application by the Bank. However, the properties of the principal borrower were released and therefore the petitioner states that



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the Bank had committed irregularities in discharging the properties of principal borrowers. Meanwhile, the Bank issued a sale notice dated 04.02.2013, which was challenged by the petitioner in a writ petition in W.P.No.2600 of 2019. Even though the writ petition was dismissed by this Court, it is stated by the petitioner that the Bank did not pursue the SARFAESI proceedings thereafter. The case of the petitioner is that the Bank later recorded full satisfaction by filing a memo on 16.10.2020 stating that the defendants had paid a sum of Rs.20 lakhs on 26.03.2015 in full and final quits of the OA claim. Since the original title deeds have been deposited with the respondent Bank, the petitioner states that the documents are to be handed over to the petitioner. The petitioner submitted representations to the respondents 2 & 3 reiterating what they had mentioned in the earlier writ petition. The case of the petitioner is that the third respondent, as a Bank, has neither taken any steps for the return of original documents nor has sent a reply. Stating that the conduct of the third respondent in not returning the original documents is not only illegal, but violative of the property rights guaranteed under Article 300-A of the Constitution of India, the above writ petition is filed.



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3. Despite notice being served upon the respondents, they have not engaged any counsel. Therefore, this Court is inclined to dispose of the writ petition with the available materials.

4. The learned counsel appearing for the petitioner produced before this Court the full satisfaction memo dated 16.10.2020 filed by the respondent Bank showing that a sum of Rs.20 lakhs had been paid by the borrower towards final quits of the claim in the original application in O.A.No.296 of 2007. After filing a memo to record full satisfaction before the Debts Recovery Tribunal, the 3rd respondent is bound to return the documents after discharging the mortgage. The internal communication also indicates that the Assistant General Manager, Stressed Assets Management Branch, Chennai has acknowledged the communication received from the petitioner and had informed the concerned branch to take necessary action.

5. Having regard to the admitted fact that the petitioner and the other legal heirs of the petitioner's parents are the persons entitled to get the



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original title documents, this Court finds that there is no reasonable excuse for the respondents not to act on the representations of the petitioner, even though the respondent Bank had filed the full satisfaction memo way back in the year 2020. Therefore, the writ petition stands allowed and the 3rd respondent or anyone of his subordinates, who is holding the documents of title in respect of the subject property, is directed to handover the original title deeds deposited by the petitioner's parents in favour of the 3rd respondent Bank in connection with the equitable mortgage, to the petitioner within a period of two weeks from the date of receipt of a copy of this order. No order as to costs.

Index : yes/no
Neutral citation : yes/no

(S.S.S.R.,J.) (N.S.,J.)
10.06.2024

ss

To

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Indian Bank
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SS

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