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W.P.No.15358 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

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THE HONOURABLE MR.JUSTICE M. DHANDAPANI

**W.P.No.15358 of 2023 &
WMP.No.32147 of 2023 &
WMP.No.14898 of 2023**

D.P. Sharath

... Petitioner

Vs.

1. IDBI Bank Ltd.,
represented by its Assistant General
Manager, Retail Asset Centre,
No.44/86, First Floor,
Fourth Avenue, Ashok Nagar,
Chennai 600 083.
2. IDBI Bank Ltd.,
represented by the Deputy General Manager,
Greams Road Branch,
No.37, PM Towers,
Greams Road, Chennai 600 006.
3. Shankar Karikar
4. Chitra Vasudevan
(R3 and R4 are impleaded as per
the order of this Court dated 18.09.2024
made in WMP.Ns.35517/2023 and
28596/2024 in WP.No.15358 of 2023)

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India for



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issuance of Writ of Mandamus to direct the 1st respondent to return the original title deeds deposited by the petitioner with the 1st respondent as security for the mortgage loan granted to him vide Loan Acc.No.1053675100000620 and Loan Acc.No.1654675100004282 in the 1st respondent bank and which has been fully discharged by pre-closure on 27.02.2023.

For Petitioner : Mr. S. Subramanian

For Respondents : Mr.Ravikiran

ORDER

The petitioner has filed the present writ petition to direct the 1st respondent to return the original title deeds deposited by the petitioner with the 1st respondent as security for the mortgage loans availed by him with the 1st respondent bank since the same has been fully discharged by pre-closure on 27.02.2023.

2. The petitioner availed loan from the 1st respondent Bank by mortgaging the property comprised in D.No.17, Flat A & B, Seethala



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Jawaharlal Nehru Street, Puducherry and thereafter on 27.02.2023, by issuing a cheque dated 27.02.2023, he foreclosed the loan amount, thereby he discharged the loan amount fully. The first respondent has also by letter dated 27.02.2023, intimated the petitioner about the discharge of the loan dues and also undertook to return the original title deeds deposited by him with the 1st respondent for creating equitable mortgage within 15 days. However, the 1st respondent did not return the title deeds to the petitioner. When the petitioner enquired about the same with the 1st respondent, he was informed that M/s D.P.Foam Pvt. Ltd has also offered the abovesaid property as a collateral security for the loan obtained by the abovesaid company, in which, the petitioner was also an Executive Director and in view of the same, the Title Deeds were transferred to the 2nd respondent.

3. The learned counsel for the petitioner submitted that it is the grievance of the petitioner that the 2nd respondent, by its letter dated 08.01.2016 has modified the terms of sanction, by which, sale of disputed property is subject to the closure of the mortgage loan standing in petitioner's name and the same has been accepted and approved by the 2nd



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respondent, which fact, would clearly show that the said property is not a security at all in any form for the loans due from M/s. D.P. Foam Pvt. Ltd. Thus he prayed for issuing direction to the 1st respondent to return the original title deeds deposited with the respondent bank.

4. The learned counsel appearing for the respondents 1 and 2 submitted that the petitioner claims that he already pre-closed the loan amount which was borrowed by him with the bank under the above loan accounts. The petitioner is one of the directors of M/s.D.P.Foam Private Limited and the above said company availed loan from the Bank to the tune of Rs.7,25,00,000/- and by way of fresh sanctions/modification of sanction letters dated 28.09.2013, 11.07.2015, 24.08.2015, 17.10.2017 27.03.2019, 04.3.2020, 29.06.2020 and restructured on 07.08.2021, two properties were mortgaged by the company as collateral security and one of such property is the subject property of this writ petition.

5. He further submitted that apart from that, the company again availed a loan to the tune of Rs.99,50,000/- from the respondent bank on



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30.12.2016 by depositing title deeds of the subject property of the writ petition by way of creating additional mortgage in respect of same property under Document No.21355 of 2022. Though petitioner has foreclosed the loan availed under document No.21355 of 2022, the property is continuing as security for the business loans availed by him in the capacity of Director of the company, as early as in the year 2010 and unless and until, all the dues are settled by the company, the bank could not return the original title deeds of the subject property. Therefore, he prayed for dismissal of this writ petition.

6. Heard the learned counsel appearing for the petitioner and the learned Counsel appearing for the respondents.

7. It is not in dispute that the petitioner availed loan by creating equitable mortgage deed in respect of property comprised in D.No.17, Flat A & B, Seethala Jawaharlal Nehru Street, Puducherry and foreclosed the same on 27.02.2023. It is seen that on 07.08.2021, the company namely M/s.D.P.Foam Private Limited, in which, the petitioner is a director, availed



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loan from the respondent Bank and after restructuring the credit facilities, the disputed property was given as collateral security for the company's over all credit facilities. Thus, it is seen that unless the company discharges the credit facilities availed by it on 07.08.2021, the petitioner is not entitled to return of the title deeds of the subject property. Hence, the prayer seeking discharge of title deeds cannot be granted by this Court.

8. In view of the above, this writ petition is dismissed with liberty to the petitioner to prefer onetime settlement with the bank. If the entire loan amount is settled, the respondent Bank is directed to return the original title deeds of the subject property to the petitioner. No costs. Consequently, the connected miscellaneous petitions are closed.

18.09.2024

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Index: yes/no

Internet:yes/no

To

1.The Assistant General Manager,
IDBI Bank Ltd.,

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No.44/86, First Floor,
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2. The Deputy General Manager,
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M. DHANDAPANI, J.

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