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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.22157 of 2021

G.Sangitha

... Petitioner

Vs.

The Branch Manager,
Indian Overseas Bank,
Kancheepuram Branch,
No.27, Vazhakarutheeswarar Koil Street,
Kancheepuram-501.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned communication of the respondent Bank dated 30.08.2021 to the petitioner herein and quash the same; and consequently, direct the respondent bank to take appropriate steps to clear the encumbrance of mortgage in Doc. No.5948/2013 dated 18.09.2013 followed by release of original title document i.e. Registered sale deed dated 01.09.2003 registered as Doc. No.2214/2003 on the file of the Joint Sub Registration No.IV Kancheepuram to the petitioner herein forthwith.

For Petitioner : Mr.D.Ravichander
For Respondents : Mr.Anandhagomathi

ORDER

The Writ Petition has been filed seeking to quash the impugned communication of the respondent Bank dated 30.08.2021 to the petitioner



herein and consequently, direct the respondent bank to take appropriate steps to clear the encumbrance of mortgage in Doc. No.5948/2013 dated 18.09.2013 followed by release of original title document i.e. Registered sale deed dated 01.09.2003 registered as Doc. No.2214/2003 on the file of the Joint Sub Registration No.IV Kancheepuram to the petitioner herein forthwith.

2. It is the case of the petitioner that the property situated at Kanchipuram Registration District, Kanchipuram Joint Sub Registration District No.IV, Kanchipuram Town, T.S.No.1641/13 after sub division No.T.S.No.1641/22B, Door No.29 A, Varadharajapuram Street, Kanchipuram measuring an extent of 1056 sq. ft. originally belongs to the petitioner's mother and the said property was mortgaged with the respondent bank on 18.09.2013 as security of the loan and accordingly, original sale deed was deposited with the respondent for the loan obtained by the petitioner's mother. While things remain so, the petitioner's mother died on 04.05.2018 and the petitioner's father predeceased her mother on 09.02.2018 leaving behind the petitioner and her sister as legal heirs. After death of her mother, with the help of the petitioners uncle, he paid entire loan amount periodically. However, the respondent bank has not returned the original documents which was mortgaged by her mother.



3. The learned counsel for the respondent submitted that the petitioners mother has two legal heirs viz., the petitioner and her sister, who is the minor. If the petitioner undertakes that he will not alienate the property till her sister attains majority, they will release the document to the petitioner.

4. In reply, the learned counsel for the petitioner submitted that the petitioner is ready to file undertaken affidavit in this regard and the petitioner has no interest to sell the property without consent of her minor sister.

5. Heard the learned counsel for the petitioner and the learned Counsel appearing on behalf of the respondents and perused the materials available on record.

6. In view of the undertaking given by the petitioner, this court passes the following directions;

1. The petitioner is directed to file an affidavit before the respondent that he will not alienate the property before her sister attains majority within a period of four weeks from the date of receipt of a copy of this order;

2. Upon receipt of such affidavit, the respondent is directed to release the original document to the petitioner within a period of two weeks thereafter.



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M.DHANDAPANI,J

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7. With the above direction, the writ petition is allowed and the impugned order passed by the respondent is set aside. No costs.

16.08.2024

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To

The Branch Manager,
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