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W.P.No.32004 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.04.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.32004 of 2023

C.BALASUBRAMANIAM

Vs

.. Petitioner

- 1 THE AUTHORIZED OFFICER
BANK OF BARODA, NO.115, ESWARI TOWERS
1ST FLOOR, NEAR ARCHANA DARSANA THEATRE
DEVAGANGA HIGH SCHOOL ROAD, R.S.PURAM
COIMBATORE - 641002.
- 2 THE CHIEF MANAGER
BANK OF BARODA (PREVIOUSLY DENA BANK)
NO.115, ESWARI TOWERS
1ST FLOOR, NEAR ARCHANA DARSANA THEATRE
DEVAGANGA HIGH SCHOOL ROAD, R.S.PURAM
COIMBATORE - 641002.
- 3 THE CHIEF MANAGER
UNION BANK OF INDIA
(PREVIOUSLY CORPORATION BANK)
1ST, 235, OPPANAKARA ST. TOWN HALL
COIMBATORE, TAMILNADU - 641001.
- 4 RATHINAVEL SUBRAMANIAM EDUCATIONAL TRUST
(PONDICHERRY) KALLIKUPPAM
THITUVETTAKUDI, KOTTUCHERRY COMMUNE
KARAIKAL - 609609
REPRESENTED BY ITS MANAGING TRUSTEE.

.. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents herein to return the original documents in respect of the property situated in New T.S.No.14, New Block No.2, New Ward "D", T.S.No.137/1, Chinthamani Village, Uraiyur Sub Registration District, Trichy Taluk, Trichy belonging to the petitioner within a time bound manner.

For the Petitioner : Mr.B.Prashanth Nadaraj

For the Respondent : Mrs.Revathi Manivannan
for respondents 1 and 2

: Mr.Bhagavath Krishnan
for 3rd respondent

: No appearance
for 4th respondent

ORDER

(Order of the court was made by the Hon'ble Chief Justice)

Heard Mr.B.Prashanth Nadaraj, learned counsel for the petitioner; Mrs.Revathi Manivannan, learned counsel for respondents 1 and 2; and Mr.Bhagavath Krishnan, learned counsel for the third respondent.

2. The issue is with regard to the property of the petitioner



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given as a security in the form of a mortgage, i.e., bearing T.S.No.14, New Block No.2, New Ward "D", T.S.No.137/1, Chinthamani Village, Uraiyur Sub Registration District, Trichy Taluk, Trichy.

3. It is submitted by learned counsel for the petitioner that five properties were mortgaged for the loan account of the fourth respondent/trust. Respondents 1 and 2 have released four properties and the property individually owned by the petitioner is not yet released. The petitioner is an erstwhile trustee of the fourth respondent/trust.

4. Learned counsel for the third respondent submits that the third respondent has already given no objection for release of the property from its *pari passu* charge.

5. It is the contention of learned counsel for respondents 1 and 2 that the four properties were released based on the request made by the fourth respondent/trust.



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6. Learned counsel for respondents 1 and 2 admits that the entire amount under the OTS arrived at between the parties has been paid and no amount is due and payable.

7. Learned counsel for respondents 1 and 2 submits that after all the pending proceedings are withdrawn, the original documents would be returned to the petitioner.

8. The aforesaid stand was not taken by respondents 1 and 2 when the original documents of other four properties were released.

9. It is not the case of respondents 1 and 2 that the OTS amount was arrived at after deducting the amount for which the properties were sold. The amount of OTS was independent and moreover the other four properties mortgaged were already released by respondents 1 and 2. There is no propriety in keeping the property documents of the petitioner, when the amount under the OTS has been received by respondents 1 and 2.



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10. It is also not disputed that the property bearing T.S.No.14, New Block No.2, New Ward "D", T.S.No.137/1, Chinthamani Village, Uraiyur Sub Registration District, Trichy Taluk, Trichy, is the personal property of the petitioner.

11. In the light of that, respondents 1 and 2 shall return the original documents in respect of the subject writ property, as described above, within a period of six weeks.

The writ petition is disposed of accordingly. There shall be no order as to costs.

(S.V.G., CJ.)

(J.S.N.P., J.)

02.04.2024

Index : Yes/No
Neutral Citation : Yes/No
sasi



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