



W.P.No.33877 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.33877 of 2023

And

W.M.P.Nos.33730 & 36522 of 2023 and 29307 of 2024

Thiru.Khaliyan Kandasamy

... Petitioner

Vs.

1.The Regional Manager,
Indian Overseas Bank,
Salem District,
Tamilnadu.

2.The Branch Manager,
Indian Overseas Bank,
Aragalur Branch,
Aathur Taluk,
Salem District,
Tamilnadu.

3.Thiru.K.Rajesekaran

4.Thiru.Kannan Kandasamy

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 not to handover the Title Deeds of the petitioner's joint family property to the hands of the third respondent herein and also directing them to hand



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over those Title Deeds to the hands of the fourth respondent, who is none other than the elder brother of the petitioner as well as the head of their family.

For Petitioners : M/s.J.Ravikumar

For Respondents : Mrs.V.Rajeswari for R1, R2
Mr.D.Gopinathan for R3
R4 – No Appearance

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Mandamus directing the respondents 1 and 2 not to handover the Title Deeds of the petitioner's joint family property to the hands of the third respondent and also directing them to hand over those Title Deeds to the hands of the fourth respondent, who is none other than the elder brother of the petitioner as well as the head of their family.

2.The learned counsel appearing for the petitioner submitted that the fourth respondent is the elder brother of the petitioner and the third respondent is the second elder brother of the petitioner. Without the knowledge of the petitioner and the fourth respondent, the third respondent pledged the Title Deeds of the petitioner's joint family property with the second respondent. Subsequently, the third



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respondent settled the bank loan on OTS basis and the petitioner was informed by the Authority of the second respondent that they are intending to handover the Title Deeds to the third respondent.

3.The learned counsel appearing for the petitioner vehemently contended that the property which was pledged by the third respondent with the second respondent is joint family property. Earlier, the third respondent obtained individual patta in his name which was questioned by the petitioner before the Revenue Divisional Officer and the Revenue Divisional Officer restored patta in the name of the family members. While such being the position, the third respondent claim to be the owner of the property and pledged the same with the second respondent is not sustainable one. Infact the Title Deeds have to be handed over to the fourth respondent who is the elder of both the petitioner and the third respondent.

4.The learned counsel appearing for the third respondent submitted that the third respondent settled the entire loan amount and hence the Titled Deeds have to be released in favour of the third respondent and further submitted that mere handing over of the Title Deeds to the third respondent will not deprive the rights of the



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petitioner and the fourth respondent over the property and further submitted that if at all the petitioner and the fourth respondent are aggrieved, they have to approach the civil Court by way of partition suit.

5.The learned counsel appearing for the respondents 1 and 2 submitted that the Title Deeds will be released in favour of the person who settled the entire loan amount.

6.Heard the arguments advanced on either side and perused the materials available on record.

7.The facts of the case is not in dispute. Admittedly, the third respondent pledged the Title Deeds of the petitioner's joint family property with the second respondent and subsequently, the third respondent settled the entire bank loan on OTS basis. Hence, the second respondent bank has to return the Title Deeds to the third respondent. The Title and share of the property has to be ventilated before the civil Court and not by way of writ petition before this Court. Hence, the relief sought for in this writ petition cannot be granted.



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8. In view of the above, this writ petition is dismissed. The second respondent is directed to hand over the Title Deeds to the third respondent, if the entire loan amount has been settled. Liberty is granted to the petitioner and the fourth respondent to work out the remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

01.10.2024

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

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Salem District,
Tamilnadu.
2. The Branch Manager,
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