



W.P(MD)No.4127 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.01.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.4127 of 2020

and

W.M.P.(MD)No.3486 of 2020

K.Ramalingam

... Petitioner

Vs.

The Branch Manager,
Canara Bank,
No.143, T.S.R.Big Street,
Kumbakonam,
Thanjavur District.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order issued by the respondent dated 12-06-2017 and quash the same and consequently, direct the respondent to return the title deeds deposited by the petitioner under the registered memorandum of deposit of the Title Deeds Dated 15-09-2005 as found in Schedule the petitioner therein for the property mentioned in scheduled II therein.

For Petitioner : Mr.B.Jameel Arasu

For Respondent : Mr.N.Dilip Kumar



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ORDER

Heard both sides.

2. The petitioner availed loan from the respondent bank. Unfortunately, the loan details are absent. Even though this Court had earlier directed the petitioner to make available the relevant details, the petitioner is unable furnish the same. The petitioner's counsel would claim that the loan account was settled in the year 2011. Again there is no detail to substantiate the same. In fact, the learned Judge who heard this writ petition on the earlier occasion had noted that the petitioner appears to have had more than one transaction with the respondent bank and that the closure material enclosed in the typed set of papers pertains to the other transaction. However, the entry in the encumbrance register on the file of the Joint Sub Registrar No.1, Kumbakonam indicates that on 15.09.2005, the memorandum of deposit of title deeds in respect of the petition mentioned property was registered as Document No.3217 of 2005. The certified copy of the said document has been enclosed in the typed set of papers. The prayer made by the petitioner is for return of the said original document. The petitioner's request was negatived by the respondent. Challenging the same, the present writ petition came to be filed.



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3. The respondent had taken the stand that the petitioner had not deposited any title deed with them and that they are not having custody of any of the petitioner's documents. This stand is clearly erroneous.

4. I consciously refrain from employing any stronger language to describe the conduct of the respondent. When the encumbrance register categorically indicates that the memorandum of deposit of title deed by the petitioner was registered, the respondent cannot now claim that they are not having custody of the document. The learned standing counsel for the respondent bank states that if the petitioner is able to give any helpful details, they can trace the documents. Since the petitioner is unable to furnish the relevant details, all that this Court can do is only to give a declaration in favour of the petitioner.

5. In these circumstances, this writ petition is disposed of in the following terms:-

(I) The encumbrance created by Document No.3217 of 2005 on the file of the Joint Sub Registrar No.1, Kumbakonam is declared as discharged.



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(II) The respondent will issue a non-traceable certificate pertaining to the petition mentioned document.

(III) The petitioner is permitted to apply for the certified copy of the sale deed dated 15.03.1982 (Document No.349 of 1982 on the file of Sub Registrar, Kumbakonam) executed by Jaya Lakshmi in favour of the petitioner herein and the Joint Sub Registrar No.I, Kumbakonam is directed to issue the same.

(IV) While issuing the same, it shall be specifically endorsed by the registering authority that the certified copy is being issued pursuant to the order of this Court in W.P.(MD)No.4127 of 2020 and that the particular certified copy alone shall be treated as a original title deed for all purposes.

(V) The petitioner is also entitled to register the non-traceable certificate to be issued by the bank as well as the order of this Court in this writ petition.

6. The Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

09.01.2024

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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