



W.P(MD)No.10272 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.03.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10272 of 2023

Packiyaraj

... Petitioner

Vs.

- 1.The General Manager,
Divisional Manager,
The Senior Recovery Office,
Circle Office,
Canara Bank,
Madurai District.
- 2.The Regional Manager,
Branch Road Branch,
Canara Bank Regional Office,
Tuticorin.
- 3.The Branch Manager,
Canara Bank,
Melur Branch,
Near South Police Station,
Tuticorin.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to register the property in S.No.2/2 to the extent of 26 cents located at Sundaravelpuram street, Sankarapperi Village, Thoothukudi Town, Tuticorin District in favour of the petitioner and the MGR Trading Co based on his



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representation dated 16.02.2023 within the time frame stipulated by this Court.

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For Petitioner : Mr.S.A.Ajmalkhan

For Respondents : Mr.R.Anandaraj

ORDER

Heard both sides.

2. One Alagirisamy Chettiar had availed loan from the Canara Bank, Melur Branch, Tuticorin. He committed default. The bank initiated recovery proceedings by filing O.A.No.1506 of 1998 on the file of the DRT, Chennai. It was decreed. The proceedings were subsequently transferred to DRT, Madurai (Re-numbered as T.A.No.555 of 2007). The transaction between the bank and Alagirisamy Chettiar was settled through OTS. Actually, the petitioner Packiyaraj paid a sum of Rs.40,00,000/- to the bank. The petitioner now alleges that the bank has not honoured its undertaking. The stand of the petitioner is that the bank should transfer the mortgaged property in his favour. In order to direct the bank to do so, the present writ petition came to be filed.

3. When the matter was taken up for hearing, the learned standing counsel for the bank clarified that OTS was only between the bank on the one hand and the borrower on the other. It may be true that the petitioner had an



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understanding with the borrower and paid the same through OTS. The bank had nowhere agreed to transfer the property in favour of the petitioner. The learned counsel for the bank also pointed out that the property in question is actually in the name of one V.S.Soundararajan (D2).

4. There is nothing on record to show that there is any privity of contract between the petitioner and the bank. I therefore cannot issue any direction to the bank. The petitioner has to proceed only against the borrower. At this stage, the learned counsel for the petitioner inform this Court that the borrower is no more. In that event, the petitioner has to proceed against the legal heirs of the borrower. Since for the last 11 months, the petitioner has been locked in litigation, it shall be excluded while computing limitation. The petitioner is given liberty to proceed against the legal heirs of the deceased Alagirisamy Chettiar.

5. With this liberty, the Writ Petition is dismissed. No costs.

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

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