



WEB COPY



W.P.No. 2865 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No. 2865 of 2025

P.SHANMUGAM

... Petitioner

Vs

1. THE MANAGER
UNION BANK OF INDIA,
MID CORPORATE BRANCH,
NO.1/3, 1st FLOOR,
EVERYDAY COMPLEX,
DHARAPURAM ROAD, TIRUPPUR
2. THE BRANCH MANAGER,
UNION BANK OF INDIA,
PERUNTHOLUVU BRANCH,
2/83, MAIN ROAD,
PERUNTHOLUVU,
TIRUPUR – 641 665.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the order dated 23.12.2024 in Lr.No.TIRU/HC/3/2024-25 passed by the second respondent, quash the same and consequently direct respondents to return the documents given as securities through memorandum of deposit of title deeds dated 13.06.2013 registered as Doc.No.1625 of 2013 on the file of



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Sub-Registrar, Thottipalayam and move forward to cancel the encumbrance entry regarding the above said memorandum of deposit of title deeds within a stipulated time to be fixed by this Court.

For Petitioner : Mr.N.Ponraj

For R1 & R2 : Mr.L.Sairam

ORDER

This writ petition has been filed for a Certiorarified Mandamus, seeking to call for the records relating to the order dated 23.12.2024 in Lr.No.TIRU/HC/3/2024-25 passed by the second respondent Bank, quash the same and consequently direct the respondents to return the documents as securities through the memorandum of deposit of title deeds dated 13.06.2013 registered as Doc.No.1625 of 2013 on the file of the Sub-Registrar, Thottipalayam and to move forward to cancel the encumbrance entry with reference to the aforesaid memorandum of deposit of title deeds.

2. Heard, *Mr.N.Ponraj*, the learned counsel appearing on behalf of the petitioner.



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3. The learned counsel for the petitioner would submit that when the deposit of title deeds was with reference to a specific loan and the said loan has been cleared by the petitioner and the bank has also given a no due certificate, there is no right for the bank to retain the original title deeds and they are also liable to cancel the memorandum of deposit of title deeds.

4. On perusal of the impugned order, it is stated that even though the particular loan for which the mortgage was originally created has been settled, while entering into a one time settlement, it is stated that the petitioner has agreed that the mortgage need not be released until any direct or indirect liability in the name of the petitioner or the company exists with the bank. Admittedly, there are other loans which are due to the respondent bank. When in the contractual realm, if the parties enter into a contract for extending the security, then it is not for this Court to interdict under Article 226 of the Constitution of India.

5. The learned counsel for the petitioner would rely upon the judgement of the Hon'ble Division Bench of this Court in *State Bank of India and others*



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versus Thilagavathi Traders and others in W.A.No. 343 of 2022. He would

submit that in that case, there was only an undertaking that they would create an equitable mortgage within a period of 14 days and when the equitable mortgage was not created, the Hon'ble Division Bench ordered the release of documents.

6. As far as the present case is concerned, from the impugned order, it is stated that the petitioner has agreed that the mortgage security can be kept by the respondent bank till the other loans are settled. Therefore, when the parties have contractually agreed to certain things, certainly it is not a case for an exercise of power under Article 226 of the Constitution of India. Leaving open such other remedies that may be available under law to the petitioner, the writ petition stands dismissed. No costs.

03.02.2025

Neutral Citation: Yes/No
nsl



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D.BHARATHA CHAKRAVARTHY, J.

nsI

To

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