



W.P.No.5454 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2025

CORAM :

THE HON'BLE MR.K.R.SHRIRAM, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.5454 of 2024
and W.M.P.Nos.9697 and 6023 of 2024

G.Balasubramaniam

.. Petitioner

Vs

Indian Overseas Bank
rep by its Chief Manager
Specialised Asset Recovery Management Branch
11/952 Cross Cut Road,
Gandhipuram, Coimbatore - 641 012.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent to act upon the exercise of right by the petitioner to redeem the said property situated at Avinashi Road, Coimbatore and thereby release their mortgage over the said property.

For Petitioner

: Mr.S.R.Rajagopal
Senior Advocate
for Mr.R.Praveennath



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For Respondent : Mr.M.L.Ganesh

ORDER

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

On 27.3.2024, the following order came to be passed:

“The application is filed by the bank for withdrawal of the amount deposited by the writ petitioner amounting to Rs.4,21,49,112/- (Rupees four crore twenty one lakhs forty nine thousand one hundred twelve only) in this Court.

2. It is submitted by the learned counsel for the bank that the property that was the subject matter of sale and pursuant to which the amount is deposited is also collateral for two other loan accounts totalling to Rs.134 crore.

3. The learned senior advocate for the writ petitioner submits that the other two loan accounts have been discharged and the letter of discharge is also given by the bank. After depositing the amount of Rs.4,21,49,112/-, the entire outstanding amount of all the three accounts would be wiped out.

4. Today, we are only considering the application for withdrawal. The bank wants to withdraw the amount as the year end is in the offing. At the same time, the rights of the writ petitioner will also have to be protected.

5. The bank is allowed to withdraw the amount deposited by the writ petitioner in this Court of Rs.4,21,49,112/- (Rupees four crore twenty one lakhs forty nine thousand one hundred twelve only) on the following conditions:

- a) The amount withdrawn by the bank would be kept in a separate account which would carry interest;
- b) As and when directed by this Court, the bank will have to re-deposit the amount in the Court within a period of seven days from the date of the order;
- c) The respondent bank shall not proceed further with the property in whatsoever manner.
- d) The aforesaid order is without prejudice to the rights and contentions of either of the parties.

Place the matter on 16.04.2024”



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2. Shri Rajagopal submits that all amounts payable to the bank have been paid and even the amount of Rs.4,21,49,112/-, referred to in paragraph 5 of the order quoted above, together with accrued interest, can be appropriated by the bank.

3. Shri Rajagopal states that would close the entire account and Shri Ganesh states that there will be few lakhs here and there which would be a shortfall. Shri Rajagopal states that petitioner will discuss with the bank and sort it out.

4. Upon appropriating Rs.4,21,49,112/- together with accrued interest, the bank shall handover all documents relating to the mortgaged property. In other words, the mortgaged property shall be redeemed.

5. Shri Ganesh states that while handing over the documents relating to the mortgaged property, petitioner will have to give a letter indemnifying the bank against any claim in respect of the mortgaged property. Shri



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Rajagopal states he shall handover the said letter to the bank.

6. Both counsels state that their respective clients will co-operate with each other so that the entire process is completed within a week from today.

7. Petition is disposed of accordingly. There shall be no order as to costs. Consequently, interim applications stand closed.

(K.R.SHRIRAM, C.J.)

(SENTHILKUMAR RAMAMOORTHY,J.)

03.01.2025

Index : Yes/No

NC : Yes/No

sasi

To:

The Chief Manager
Indian Overseas Bank
Specialised Asset Recovery Management Branch
11/952 Cross Cut Road,
Gandhipuram, Coimbatore - 641 012.



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THE HON'BLE CHIEF JUSTICE
AND
SENTHILKUMAR RAMAMOORTHY, J.

(sasi)

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