



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2025

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CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.21592 of 2025

Mr.Dayalan Rajes

.... Petitioner

.Vs.

1.The Assistant General Manager
Canara Bank, Salem.

2.The Branch Manager
Canara Bank
Yercaud.

.. Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to discharge the mortgage bearing Doc.No.459/16and 460/16 SRO Yercaud and release the documents contained therein.

For Petitioner : Mr.V.Ramesh
for Mr.R.Ashwanth

For Respondents : Mr.R.Sreedhar
Standing Counsel

ORDER

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to discharge the mortgage loan and to release the documents.

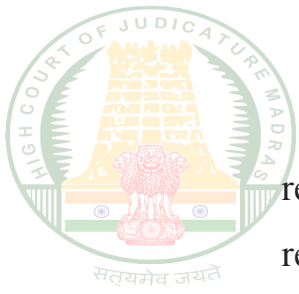


2.The case of the petitioner is that he and his wife late Hema Dayalan approached the 2nd respondent bank for loan. The same was sanctioned. The petitioner and his wife mortgaged their joint property by memorandum of deposit of title deeds. The same was registered as Document Nos.459 of 2016 and 460 of 2016. In Schedule-I, they had enclosed 63 documents in each MODT which includes registered sale deed, settlement deed, orders passed by Civil Courts etc.

3.The further case of the petitioner is that the loan that was taken by the petitioner and his wife have been cleared and this fact has been admitted by the respondents in the year 2022 itself. However, the documents were not released. In view of the same, the petitioner made a representation for release of documents. Since the same was not acted upon, the present writ petition was filed before this Court.

4.The respondent bank has filed a counter affidavit. The relevant portions are extracted hereunder:

5. I submit that the writ petitioner, his wife Mrs. Hema Dayalan and his son Mr.Shiv Dayalan had availed the financial facilities to the tune of Rs.30,00,000/- (Rupees thirty Lakhs), 27,00,000/- (Rupees thirty Lakhs) and 28,50,000/- (Rupees Twenty Eight Lakhs Fifty Thousand Only) respectively and offered their family property as collateral in order to secure the loan. The aforesaid persons had deposited the documents



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relating to the title in favour of the Bank with respect to their respective properties which was mentioned in the schedule of the MODT. The writ Petitioner Mr. Dayalan Rajes had mortgaged the property having extent of 18.98 hectares or 46.88 acres vide Memorandum of Deposit of title Deeds No.459/2016 and his wife Mrs. Hema Dayalan had mortgaged the property having extent of 15.51 hectares or 39.31 acres vide Memorandum of Deposit of title Deeds No.460/2016 in favour of the Respondent bank respectively. Similarly, their son Mr. Shiv Dayalan has mortgaged the property having extent of extent of 20.32 hectares or 50.19 acres vide Memorandum of Deposit of title Deeds No.459/2016. Thus, the aforesaid persons have deposited the common documents relating to the property vide separate Memorandum of Deposit of title Deeds. The documents deposited by them are certified copies and photostat copies. They have deposited some of the original revenue records such as Patta, VAO certificates etc, because they had traced their title through the court decree and through some Deed of of family arrangement. Furthermore, the petitioner is also very much aware of the fact that they all have deposited the documents referred in Serial No.1 to 63 in all the three MOD's. Not even a single document is changed and the property is also carved out of a larger extent in different survey nos.

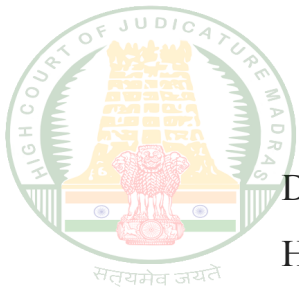
6. I submit that it is true that the loan availed by the Writ petitioner and his wife Mrs. Hema Dayalan are fully paid. The



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bank is not disputing the said facts and they are also willing to execute the Discharge receipt for the extent of the Land mentioned in the Memorandum of Deposit of title Deed Nos. 459 and 460 of 2016. However, the loan availed by Mr. Shiv Dayalan is still subsisting and the account is still live. Since the tracing of title is not through any registered documents and the tracing covered through various revenue records and court decree, the possibility of returning the said documents during the currency of loan availed by Mr. Shiv Dayalan is not possible. It was informed by the petitioner that his wife Hema Dayalan was passed away in the year 2016 for which he did not provide any legal heirship certificate. As per the Bank norms, during the currency of the loan, the borrower dies his legal heirs are entitled to get back the documents. At this juncture the, Writ petitioner entitled to get back the Loan related documents and the other legal heirs has to give consent or No objection to release the documents deposited by Late. Hema Dayalan to the Writ petitioner. Admittedly, other legal heirs are there and they are not made as party in this Writ petition. Furthermore, petitioner is not entitled to get back the documents relating to his wife Late. Hema Dayalan in the absence of NOC from other legal heirs.

7. I submit that the Bank has already informed the petitioner vide letter d by clearly stating the aforesaid reasons. If the said documents are petitioner, then there will not be any document available as security for by their son Mr. Shiv

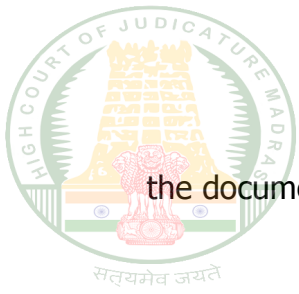


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Dayalan. Further it is also informed by the Writ p wife Mrs. Hema Dayalan was expired. The then branch manager and m informed the petitioner several times to bring a copy of the legal he along with the consent from other legal heirs to proceed further. We h the documents are common collateral and Shiv Dayalan's loan account closed in order to return the documents for which there is no response filed the present Writ Petition without providing proper and necessary information before this Hon'ble High court is highly condemnable. The Writ Petition is liable to be dismissed for non joinder of parties as the said Shiv Dayalan or other legal heirs of Late.Hema Dayalan are not arrayed as respondents.

5.Heard Mr.V.Ramesh, learned counsel for the petitioner and Mr.R.Sreedhar, learned Standing Counsel appearing on behalf of the respondents.

6.It is not in dispute that the petitioner and his wife had availed loan and they have fully repaid back the loan. The bank is also willing to execute the discharge receipt for the extent of loan mentioned in the MODT which was registered as Document Nos.459 of 460 of 2016. However, it is seen that the petitioner's son Shiv Dayalan has also availed a loan for which almost the very same set of documents has been given as security. Therefore, the respondent bank has taken a stand that they will not be able to hand over the documents until the petitioner's son gives NOC. That apart, the loan amount is yet to be discharged by the said Shiv Dayalan and therefore



the documents which were given as security cannot be released.

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7. On carefully going through the documents that were given as security by the petitioner, his wife and his son, it is seen that while the security was given by the petitioner and his wife, the property was jointly owned. Thereafter, when the security was given by the son, it is seen from the list of documents that there was a partition among the parties and the memorandum of partition dated 20.09.1981, has been given as a security by the petitioner's son. To substantiate the same, the mutation that was carried out in the revenue records in the name of the petitioner's son is also apparent in Sl.Nos.22, 27, 38 and 40 of the list of documents that was given as security by the petitioner's son. All the other documents are photocopies of the same documents that were given as security by the petitioner and his wife.

8. In the light of the above development, the 2nd respondent Bank can segregate the documents that have been mentioned supra towards security for the loan taken by the petitioner's son. Thereby, the documents that were given as security by the petitioner and his wife can be returned back. That part, the discharge receipt for the settlement of the entire loan by the petitioner and his wife can also be issued to the petitioner. This process shall be completed by the 2nd respondent within a period of four weeks from the date of receipt of copy of the order.



This writ petition is disposed of with the above directions. No costs.

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30.07.2025

Index : Yes/No

NCS : Yes/No

KP

To

1.The Assistant General Manager
Canara Bank
Salem.

2.The Branch Manager
Canara Bank
Yercaud.



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N.ANAND VENKATESH, J.

KP

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