



W.P.No.19264 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.01.2025

CORAM :

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

AND

THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.No.19264 of 2024

Subhash Chand Jain

.. Petitioner

Vs

The Authorised Officer,
The DBS Bank
(Formerly Laxmi Vilas Bank)
Chennai Main Branch,
Thambu Chetty Street,
George Town, Chennai-600 001.

.. Respondent

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondent to refund a total sum of Rs.3,17,68,380/- (Rupees Three Crore Seventeen Lakhs Sixty eight Thousand Three Hundred and Eighty only) paid towards sale considerations, stamp duty and registration charges along with the interest at the rate of 12% per annum from the date of registration of sale certificates bearing document No.1796 and 1797 of 2012 on the file of SRO, Periamet



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and document No.470 of 2013 on the file of Thiagaraya Nagar till the same is realised in full within a specific time frame may be fixed by this Court.

For Petitioner : Mr.K.S.Shangaramurali

For Respondent : Mr.E.Om Prakash
Senior Advocate
for M/s.L.Thiyagaiya

: Mrs.R.Shakeela
Chief Manager (Law)
DBS Bank India Limited
806, Anna Salai
Chennai-600 002
[*Appeared in Court*]

ORDER

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

The primary grievance in the petition is even after paying almost Rs.3.00 Crores for the mortgaged properties way back in 2012, possession has not been handed over by respondent bank and, therefore, the amount paid should be refunded with 12% interest.

2. Shri Om Prakash does not dispute that there was delay in handing



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over possession, but states that, that was due to various restraint orders passed by different forums on the applications made by the borrower and the bank cannot be faulted. At the same time, Shri Om Prakash further states that the bank has now taken possession and is ready and willing and in a position to hand over vacant and peaceful possession to petitioner. This statement is made by Shri Om Prakash on instructions from Mrs.R.Shakeela, Chief Manager (Law) of respondent bank. Shri Om Prakash states possession can be handed over of all the three flats even tomorrow. Shri Om Prakash states petitioner may come to Egmore property at 10.00 A.M. tomorrow to take possession and, after petitioner takes possession, the representative of the bank along with petitioner will proceed to T.Nagar properties and hand over possession. In short, the bank's representative states possession of all the properties will be handed over by tomorrow.

3. Counsel for petitioner states that petitioner would take possession tomorrow, but reserves right to sue the bank for damages. It is open to the petitioner to take such course as he wants and the bank to raise such



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defence as it has. We make no observation.

4. Accepting the statement of the bank that the vacant and peaceful possession will be handed over by tomorrow as an undertaking to this Court and keeping open the rights and contentions of the parties, we dispose of the petition. There shall be no order as to costs.

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

(SENTHILKUMAR RAMAMOORTHY, J.)

02.01.2025

Index : Yes/No

NC : Yes/No

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To:

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THE HON'BLE CHIEF JUSTICE
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SENTHILKUMAR RAMAMOORTHY,J.

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