IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2025

CORAM:

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

W.P.No.34416 of 2024

B.DHANASEKARAN ... Petitioner

Vs

1. RBI OMBUDSMAN
OFFICE OF THE RBI OMBUDSMAN -I
RESERVE BANK OF INDIA, CHENNAI 600 001.

2. INDIAN OVERSEAS BANK
ENNAIKARA STREET BRANCH (BR. CODE 1318)
NO.122/F, ENNAIKARA STREET,
KANCHIPURAM - 631 502. ... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Mandamus, directing the first respondent to pass orders on petitioner's complaint dated 12.08.2024 which was acknowledged by the respondent in their reply dated 08.10.2024 and 30.09.2024 and by directing the second respondent to pay compensation to the petitioner for delay in release of petitioner's original Sale Deed Document No.124/1996 dated 20.01.1996 as per Norms RBI/2023 - 24/60 DoR. MCS. REC. 38/01.001/ 2023-24 dated 13.09.2023 within the time stipulated by this Court.

For Petitioner : Mr.S.Veeraraghavan

For R1 : No appearance (Notice Served)

For R2 : Mr.K.Balaganesh

ORDER

This writ petition is for a direction to the first respondent to issue an order regarding the petitioner's complaint dated 12.08.2024 and to direct the second respondent to compensate the petitioner for the delay in releasing the original sale deed document No.124/1996, dated 20.01.1996.

2. The brief facts leading to the filing of this writ petition are that the petitioner was an employee of the second respondent bank. He took a loan from the second respondent bank. At the verge of his retirement in April 2021, he settled the loan amount. The petitioner states that the loan was settled on 07.04.2021. However, the second respondent bank claims that the loan amount was finally settled on 06.05.2021. Be that as it may, once the loan amount is settled, the Reserve Bank of India has issued guidelines regarding the handing over of the original documents in its proceedings dated 13.09.2023. These guidelines state that ordinarily, the bank should release the documents within 30 days from the date on which the loan amount is fully

settled. The guidelines also specify in Clause 6 that for every day of delay, the borrower is entitled to compensation of Rs.5,000/- per day. In the event of lost documents, the guidelines mention that an additional period of 30 days will be allowed for the bank to assist the borrower in obtaining duplicate certified copies, and the bank shall bear the associated costs. Clause 7 specifically states that the delay will be calculated only after a period of 60 days. The entire Clause 6 and 7 of the said circular issued by the Reserve Bank of India is extracted hereunder for ready reference:

> "6. In case of delay in releasing of original movable / immovable property documents or failing to file charge satisfaction form with relevant registry beyond 30 days after full repayment/ settlement of loan, the RE shall communicate to the borrower reasons for such delay. In case where the delay is attributable to the RE, it shall compensate the borrower at the rate of Rs.5,000/- for each day of delay.
>
> 7. In case of loss/damage to original movable/ immovable property documents, either in part or in full, the REs shall assist the borrower in obtaining duplicate/certified copies of the movable / immovable property documents and shall bear the associated costs, in addition to paying compensation as indicated at paragraph 6 above. However, in such cases, an additional time of 30 days will be available to the REs to complete this procedure and the delayed period

penalty will be calculated thereafter (i.e., after a total period of 60 days)."

3. Under these circumstances, the petitioner claims that he has made repeated representations, but there has been absolutely no response from the second respondent bank. The petitioner finally petitioned the Banking Ombudsman, the Reserve Bank of India, the first respondent herein, on 12.08.2024. After receiving notice from the Reserve Bank of India, the second respondent bank, for the first time on 21.10.2024, communicated with the writ petitioner. In this communication, the bank acknowledged that the property was mortgaged with their branch. It was further stated that, upon the retirement of the petitioner, the loan was closed on 06.05.2021. The second respondent bank mentioned that despite their best efforts to trace the original documents, they were unable to do so and expressed regret for the inconvenience caused. Following the bank's guidelines, they obtained a certified copy of the document and forwarded it to the petitioner on 21.10.2024. The Reserve Bank of India then proceeded to consider the complaint and, upon noting that the bank was ready to issue a no objection certificate and had already provided a certified copy of the document,

awarded compensation of Rs.50,000/- due to the 3-month delay. The communication dated 25.11.2024 was addressed to the second respondent bank and has now been produced by the second respondent bank. Accordingly, on 27.11.2024, the bank enclosed the demand draft for the stated sum and forwarded it to the petitioner. The petitioner refused the demand draft, protesting the quantum of compensation in his representation dated 29.11.2024, and directed the bank to locate his document and return it to him. Thereafter, the petitioner approached this Court.

4. The second respondent bank resists the writ petition by duly filing a counter affidavit.

5. The learned counsel representing the petitioner submits that the compensation awarded by the first respondent is inadequate. The guidelines of the Reserve Bank of India clearly state that for each day of delay, a sum of Rs. 5,000/- should be provided. In the event of a lost document, the authorities must assist the petitioner in obtaining a duplicate copy and registering the No Objection Certificate (NOC). Two months' time is granted to the bank in this context. However, the bank has failed to comply within

this two-month period. Furthermore, when calculating the delay, it extends from August 2021 to September 2024, totalling over 1,000 days. Therefore, the compensation awarded should exceed Rs. 50,00,000/- and not merely Rs. 50,000/-. The learned counsel for the petitioner argues that the compensation is statutory in nature, as prescribed by the Reserve Bank of India through its guidelines. The second respondent bank adheres to the Reserve Bank of India's guidelines concerning the determination of interest and other regulations. Therefore, in the same manner, the Reserve Bank of India should have determined the compensation according to its own guidelines. In the order submitted with the counter affidavit, the delay is incorrectly calculated as three months. Even for a delay of three months, the Reserve Bank of India failed to calculate the compensation of Rs. 5,000/- per day for 90 days, awarding only Rs. 50,000/-.

6. Conversely, the learned counsel representing the second respondent bank would argue that the petitioner was also an employee of the second respondent bank. It is not the case that the bank willfully refrained from releasing the document; rather, it is a genuine matter where the document was

lost. The bank asserts that on 07.05.2021, this fact was communicated to the petitioner. The bank has also obtained a duplicate copy and forwarded it to the petitioner. The bank is prepared to issue a no objection certificate, and the property can be released from the mortgage once it is registered. The Reserve Bank of India ought not to have awarded compensation; however, as a gesture of goodwill, the second respondent bank also enclosed a Demand Draft for Rs.50,000/-, which was returned by the petitioner. Therefore, the second respondent bank has already provided the certified copy of the original document, is ready to issue the No Objection certificate, and is also willing to pay the compensation awarded by the Reserve Bank of India, although the compensation is advisory in nature. The petitioner has approached this Court without accepting it. The petitioner claims a higher compensation and must prove the loss or quantum before the appropriate Civil Court. This Court, under Article 226, cannot determine the quantum of compensation. There has been no error on the part of the second respondent bank.

7. I have considered the opposing submissions from both sides and examined the relevant case records.

8. Regarding the original document, the petitioner cannot insist on receiving it since it has been acknowledged as lost. A certified copy has already been obtained and sent to the petitioner. The statement made by the bank in the counter affidavit, along with the recording of this fact by this Court, shall serve as conclusive proof that the petitioner's original document is lost. Therefore, the petitioner will not face any prejudice in the future due to the loss of the original document.

9. Secondly, the second respondent bank is willing to issue a no objection certificate. If the petitioner presents a copy of this order along with the no dues certificate/letter issued by the second respondent to the appropriate registering authority, then the registering authority shall act on it, cancel the mortgage entry, and clear the encumbrance. Consequently, there will be no impediment whatsoever for the petitioner in dealing with the property.

10. The further grievance of the petitioner pertains to the issue of compensation. The learned counsel for the second respondent contends that the petitioner must approach the appropriate Civil Court. However, we are not concerned in this case with unliquidated or actual damages, but liquidated punitive damages prescribed under the guidelines of the Reserve Bank of India as Rs.5,000/- per day and as such, the petitioner need not be relegated to the Civil Court.

11. It can be observed that, although the second respondent asserts in the counter affidavit that the petitioner was informed of the fact on 07.05.2021, there is no document to support this claim. This document was not included with the counter affidavit, despite all other documents being submitted. Additionally, the second respondent failed to follow the guidelines by not obtaining and forwarding the certified copy to the petitioner. No written communication was sent to the petitioner inviting him to come to the bank to collect the NOC document. All actions were taken only after the first respondent initiated an inquiry in the year 2024, leading to a delay of more than three years. However, it is also important to note that the petitioner is an

employee of the bank and states in his complaint that he has been visiting the bank repeatedly, mentioning that the documents were lost. Therefore, the delay should not be considered for the entire period. The first respondent after enquiry and going through the files had found that there has been a delay of three months. Therefore, calculating for 90 days, the compensation works out to Rs. 4,50,000/-. However, only considering the peculiar facts of this case that the petitioner himself was an employee of the bank and that there were visits and oral interactions between both sides, the compensation is restricted to Rs. 2,00,000/-, which would be fair and appropriate in the instant case.

12. Therefore, this writ petition is disposed of on the following terms:

> (i) The statement made by the second respondent bank, indicating that the original document is lost and recorded in the present order shall serve as conclusive proof that the original document, namely the sale deed dated 20.01.1996 with Document No. 124/1996, is indeed lost.
>
> (ii) Within one week from the date of production of the web copy of the order, the petitioner shall approach the second respondent bank, which shall issue a no objection/no due certificate and provide due authorization for any of their employee to present it before the concerned Sub

Registrar.

(iii) Upon production of the same and the copy of this order, the concerned Sub-Registrar shall make an entry to indicate receipt and the cancellation of the mortgage and appropriately clear the encumbrance. This process shall be completed within six weeks .

(iv) The second respondent bank shall pay a compensation of Rs.2,00,000/-within four weeks.

(v) All concerned shall act upon receiving/producing the website-uploaded copy of this order without waiting for the certified copy of the order.

(v) No costs.

17.02.2025

Neutral Citation: Yes
nsl

To

1. RBI OMBUDSMAN
OFFICE OF THE RBI OMBUDSMAN -I
RESERVE BANK OF INDIA, CHENNAI 600 001.

2. INDIAN OVERSEAS BANK
ENNAIKARA STREET BRANCH (BR. CODE 1318)
NO.122/F, ENNAIKARA STREET,
KANCHIPURAM - 631 502.

D.BHARATHA CHAKRAVARTHY, J.

nsl

W.P.No.34416 of 2024

17.02.2025