BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 31.01.2025

PRONOUNCED ON : 28.04.2025

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.28319 of 2024

C.Saravanan ... Petitioner

Vs.

1.The Regional Manager,
Bank of Baroda,
Aparna Towers, 2, 3 Bye Pass Road,
Ponmeni,
Madurai 625 016.

2.The Branch Manager,
Bank of Baroda,
Meenakshi Complex, 279, Tirupattur Road,
Devakottai,
Sivagangai District 630 302. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing both the respondents to pay Rs.11,55,000/- (Rupees Eleven Lakhs and fifty five thousand only) as compensation for delay, in disbursement of the title documents of property to the petitioner, as per the circular of the reserve bank of India in RBI / 2023-24/ 60 DOR.MCS. REC.38/ 01.001/ 2023-2024 dated 13.09.2023.

For Petitioner : Mr.K.P.Narayanakumar

For Respondents : Mr.Pethu Rajesh,
Standing counsel

ORDER

This writ petition is filed seeking to direct the respondents to pay an amount of Rs.11,55,000/- (Rupees Eleven Lakhs and fifty five thousand only) as compensation for delay in disbursement of title documents or properties to the petitioner as per the Circular of the Reserve Bank of India in RBI/2023-24/60 DOR.MCS.REC. 38/01.001/2023-2024 dated 13.09.2023.

2. The writ petitioner and his brother Thiru.C.Chinnakannan are the joint owners of the property in Vagaikudi village in survey No.38/3. Both of them jointly applied for housing loan with the erstwhile Vijaya Bank, Tirupttur branch, which has now been merged with Bank of Baroda, Devakottai branch. The property in survey No.38/3 was mortgaged with the bank as collateral security to the credit facility availed by them, by jointly executing the registered memorandum of deposit of title deed in favour of the bank. After availing the said loan, a dispute arose between the writ petitioner and his brother C.

Chinnakannan in repaying the loan amount and hence, a default was committed on the part of the petitioner's brother in paying the equitable monthly installments to the respondent bank. As a result of which, the CIBIL score of the petitioner was badly affected.

3. The loan account was defaulted, following which a demand notice was issued to them to the address they had furnished to the bank at the time of availing the credit facility. When the respondent bank was almost to initiate a legal proceeding for recovery of the loan dues, the writ petitioner assured that he will repay the entire outstanding dues and will close the loan account. As assured by the petitioner, he repaid the entire due amount and closed the loan account. On closure of the loan account, the respondent bank without issuing the original documents and no objection certificate to the writ petitioner kept the matter pending.

4. Under such circumstances, pointing out the act of the respondent bank in not returning the original documents and discharge of the mortgage made, the writ petitioner filed a consumer complaint in C.C No. 9 of 2021 on the file of the District Consumer Disputes Redressal Commission, Sivagangai, and in the said case on conclusion of evidence and after hearing the arguments of either parties, the

District Consumer Redressal Commission directed the respondent bank to issue no due certificate, to hand over the original documents and to execute a discharge receipt and pay a compensation of Rs.20,000/- (Rupees Twenty Thousand only) and a cost of Rs.10,000/- (Rupees Ten Thousand only) to the writ petitioner. The respondent bank without filing any appeal as against the aforesaid order complied with the same by returning the original documents, by executing the discharge receipt and by paying compensation on 12.08.2024. However, even after receipt of the same in terms of the award of the Consumer Dispute Redressal Forum, the petitioner has further initiated this parallel proceeding before this Court by seeking to exercise the extraordinary jurisdiction of this Court by filing this writ petition.

5. It is the admitted case of the respondent bank in terms of the counter affidavit filed on behalf of the first and second respondents that despite all the proper defenses as put forth by the first and second respondents bank in para 2, 3 and 4 of the counter affidavit before the District Consumer Redressal Forum at Devakottai in C.C.No.9 of 2021 on the basis of the evidence, the Consumer Forum had passed an order in favor of the writ petitioner directing the respondent bank to hand over no due certificate, to hand over original documents and execute discharge receipt and in addition to that pay a compensation of Rs.

20,000/- (Rupees Twenty Thousand only) and a cost of Rs.10,000/- (Rupees Ten Thousand only). Claiming that though the said order is erroneous, the respondent bank did not file any appeal, they duly complied the order of the Consumer Redressal Forum.

6. However, the learned counsel for the respondent bank Mr. Pethu Rajesh categorically submitted that having received the compensation in terms of the order passed by the learned Consumer Redressal Forum, Devakkottai, the writ petitioner is not justified in initiating parallel proceeding before this Court in seeking additional compensation on the basis of the circular of the Reserve Bank of India. He submitted that the compensation which was fixed by the Reserve Bank of India vide circular RVA/2023-24/60 DOR.MCS.REC. 38/01.01.001/2023-2024 dated 30.09.2023 was with respect to the delay in the release of movable or immovable property documents. However, the applicability of the said circular could be related to the release of movable or immovable property documents which falls due on or after 1st December 2023.

7. However, in the present case, the cause of action arose on 03.12.2020 when the petitioner lodged his first complaint and proceeded with the civil suit in O.S.No.84 of 2021 on the file of

Subordinate Judge's Court, Devakottai, for the relief of handing over the title deeds and further a consumer case in C.C.No.9 of 2021 in the District Consumer Disputes Redressal Forum, Sivagangai. The document release fell due before the said cut off date, that is, before 01.12.2023 and subsequently two of the said litigations were pending verdict before the said cut off date.

8. The respondent bank is litigating in the said cases. Even otherwise the bank had sent a communication to the petitioner on 16.02.2021 replying to the petitioner's legal notice dated 25.01.2021 requesting the petitioner and his brother C.Chinnakkannan jointly approach the bank for release of title deeds. Going through the above said facts it would be clear that the respondent bank is not the cause for the delay in releasing the title deeds and it is the petitioner who wanted to get the title deeds released in the absence of his brother Chinna Kannan for the reasons best known to him and hence the petitioner is not justified in seeking additional compensation relying upon the said circular and pressed for dismissal of the writ petition.

9. Heard the learned counsels on either sides and carefully perused the materials available on record.

10. The submission made by the learned counsel for the respondent bank that the civil suit in O.S.No.84 of 2021 on the file of Sub Court, Devakottai, is still pending and during pendency of the same, the petitioner is not justified in filing this writ petition could not be sustained for the reason that on the date when the original documents were issued by the respondent bank to the writ petitioner by executing a discharge receipt and by paying compensation as on 12.08.2024, the said civil suit would have become infructuous. However, as far as the claim of the learned counsel for the respondent that the circular of the Reserve Bank of India is applicable only as on or after the 1st December 2023, the same has to be looked into. For better clarity, the said circular is extracted as follows:

भारतीय रिज़र्व बैंक
RESERVE BANK OF INDIA
www.rbi.org.in

RBI/2023-24/60
DoR.MCS.REC.38/01.01.001/2023-24

September 13, 2023

All Commercial Banks (including Small Finance Banks and Regional Rural Banks, excluding Payments Banks)
All Local Area Banks
All Primary (Urban) Co-operative Banks
All State Co-operative Banks and District Central Co-operative Banks
All NBFCs (including HFCs)
All Asset Reconstruction Companies

Madam / Dear Sir,

Responsible Lending Conduct – Release of Movable / Immovable Property Documents on Repayment/ Settlement of Personal[1] Loans

In terms of the guidelines on Fair Practices Code issued to various Regulated Entities (REs) since 2003, REs are required to release all movable / immovable property documents upon receiving full repayment and closure of loan account. However, it has been observed that the REs follow divergent practices in release of such movable / immovable property documents leading to customer grievances and disputes. To address the issues faced by the borrowers and towards promoting responsible lending conduct among the REs, the following Directions are being issued:

Release of Movable / Immovable Property Documents

2. The REs shall release all the original movable / immovable property documents and remove charges registered with any registry within a period of 30 days after full repayment/ settlement of the loan account.

3. The borrower shall be given the option of collecting the original movable / immovable property documents either from the banking outlet / branch where the loan account was serviced or any other office of the RE where the documents are available, as per her / his preference.

[1] As defined in Annex to the Circular on 'XBRL Returns – Harmonization of Banking Statistics' dated January 04, 2018

विनियमन विभाग, केंद्रीय कार्यालय, 12वीं और 13वीं मंज़िल, केंद्रीय कार्यालय भवन, शहीद भगत सिंह मार्ग, मुंबई 400001
टेलीफोन /Tel No: 22601000 फैक्स/ Fax No: 022-2270 5670, 2260 5671, 5691 2270, 2260 5692
Department of Regulation, Central Office, 12th & 13th Floor, Central Office Building, Shaheed Bhagat Singh Marg, Mumbai – 400001
Tel No: 22601000 Fax No: 022-2270 5670, 2260 5671, 5691 2270, 2260 5692

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4. The timeline and place of return of original movable / immovable property documents will be mentioned in the loan sanction letters issued on or after the effective date.

5. In order to address the contingent event of demise of the sole borrower or joint borrowers, the REs shall have a well laid out procedure for return of original movable / immovable property documents to the legal heirs. Such procedure shall be displayed on the website of the REs along with other similar policies and procedures for customer information.

Compensation for delay in release of Movable / Immovable Property Documents

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 ₹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).

8. The compensation provided under these directions shall be without prejudice to the rights of a borrower to get any other compensation as per any applicable law.

Applicability

9. These Directions shall be applicable to all cases where release of original movable / immovable property documents falls due on or after December 1, 2023.

10. The above Directions are issued under sections 21, 35A and 56 of the Banking Regulation Act, 1949, sections 45JA and 45L of the Reserve Bank of India Act, 1934, and section 30A of the National Housing Bank Act, 1987.

Yours faithfully,

(Santosh Kumar Panigrahy)
Chief General Manager

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11. Though it is made clear that the compensation provided under the directions in the aforesaid circular shall be without prejudice to the rights of a borrower to get any other compensation as per any applicable law. It is also to be taken into consideration that those directions shall be applicable only to those cases where release of original movable / immovable property documents falls due on or after 1st December 2023. As rightly pointed out by the learned counsel for the respondent bank, the cause of action for the release of documents in the instant case arose on 03.12.2020 when the petitioner lodged first complaint and proceeded with the civil suit in O.S.No.84 of 2021 on the file of the Sub Court, Devakottai, and further a consumer case in C.C.No.9 of 2021. Hence, the said case cannot be considered as one which fell due on or after 1st December 2023 and hence in the facts and circumstances of this case, the circular cannot be connected and be made applicable to the instant case.

12. Accordingly, the writ petition fails and the same is dismissed. No costs.

28.04.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
Sml

To

1.The Regional Manager,
Bank of Baroda,
Aparna Towers, 2, 3 Bye Pass Road,
Ponmeni,
Madurai 625 016.

2.The Branch Manager,
Bank of Baroda,
Meenakshi Complex, 279, Tirupattur Road,
Devakottai,
Sivagangai District 630 302.

L.VICTORIA GOWRI, J.,

Sml

W.P.(MD)No.28319 of 2024

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