
(2013) 08 KAR CK 0076
In the Karnataka High Court
Case No : Writ Petition No. 47695 of 2012

Mohammed Akram and Another

APPELLANT

Vs

Branch Manager, State Bank of Mysore and Others

RESPONDENT

Date of Decision : 29-08-2013

Acts Referred:

Citation : (2013) 4 AKR 449

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : K.T. Gurudeva Prasad, for the Appellant; T.S. Mahabaleshwara and S.K. Shetty, for the Respondent

Judgement

A.S. Bopanna, J.—The petitioners are before this Court seeking for issue of mandamus to direct the respondent No. 1 to return the original documents of the property received under loan account No. 54045995729 and also to pay the damages. The case of the petitioners is that they are the owners of the property bearing No. 16, 4th Main Road, Hebbal Mill, Ganganagar, R.T. Nagar Post; Bangalore-32. The petitioners had approached the respondent-Bank for housing loan for construction of residential. building. Accordingly, loan had been sanctioned under the loan account No. 54045995729 and the original documents relating to the property had been deposited with the respondent-Bank by way of mortgage over the property. The case of the petitioners is that they have repaid the loan and closed the account on 06.03.2008.

2. The grievance of the petitioners is that despite the petitioners having closed the loan account and they were entitled to receive back the title deeds of the property which had been deposited with the respondent-Bank, the same has not been returned to them. In that regard, the petitioners had also approached the Banking Ombudsman, but no purpose has served inasmuch as it has been decided that the respondent-Bank has to pay the damages as per the circular guiding them. It is in that circumstance, the petitioners contend that a mandamus be issued to the respondent No. 1 to return the original documents

relating to the property.

3. The respondents have filed their objection statement. The issue relating to the loan having been sanctioned to the petitioners and also the same having been cleared by the petitioners is not in dispute. However it is contended that the title deeds which had been deposited with them has been lost and in that circumstance as per the guidelines, the payment of compensation of Rs. 10,000/- has been made and the certified copy of the documents which were available with the respondent-Bank has also been delivered. In that view, it is contended that the mandamus as prayed for in the instant petition cannot be granted.

4. In the light of the rival contentions, the common case of the parties is that the loan which had been sanctioned to the petitioners has been cleared and though the petitioners are entitled for receiving the documents, the respondent-Bank was not in a position to return the same as they have intimated that the documents have been lost. Further, in that regard as per the regulations to the extent as indicated therein, the damages has also been paid and the copies of the documents has been returned to the petitioners. The question therefore is, whether in such admitted circumstance, a mandamus as prayed for could be issued in that instant case. The position of law is very clear that futile writs would not be issued by the Courts.

5. In the instant case, when it is the contention of the respondent-Bank that the documents have been lost, a mandamus to return the documents cannot be issued. Needless to mention that since the respondents have accepted the case of the petitioners that the loan has been closed and they have contended that the original documents have been lost and certified copies thereof which were available with them has been made over to the petitioners, certainly the petitioners would have to avail their other remedies in accordance with law to rely on such documents in the appropriate manner as it would be done in a circumstance when the original documents are lost. The indication that has been made in the petition insofar as the second part of the prayer with regard to damages, the same in any event cannot be determined by this Court and if the petitioners have suffered any damages, it can only be claimed in accordance with law. Therefore, the liberty in any event would be available to the petitioners in accordance with law to rely upon the copies of the documents as per law and also to seek for damages in an appropriate proceedings. Therefore, no specific direction in any event could be issued in the instant petition. Accordingly, the petition is disposed of with the above observations.