(2023) 04 KL CK 0062

In the High Court Of Kerala

Case No : Writ Petition (C) No. 10802 Of 2023

Sumesh Joseph APPELLANT

Vs

Kerala Bank, (Kerala State CoOperative Bank Limited) RESPONDENT

Date of Decision : 10-04-2023

Acts Referred:

Citation : (2023) 04 KL CK 0062

Hon'ble Judges : Shaji P.Chaly, J

Bench : Single Bench

Advocate : Mohan Jacob George, P.V.Parvathy, Reena Thomas, Nigi George, Gilbert George Correya

Final Decision : Disposed Of

Judgement

Shaji P.Chaly, J

1. This writ petition is filed by the petitioner seeking the following reliefs:-

"(i) The respondents are bound to release the title deeds mortgaged with them on closure of the loan facility availed by the petitioner. Ext.P2 evidences the closure of the loan by the JJ Holiday Resorts (P) Ltd fro which the business overdraft facility was availed by the petitioner. The respondents are not entitled to retain the title deeds of the petitioner consequent to the closure of the loan.

(ii) The respondents bank has no right, title, authority or lien over petitioner's property to withhold the same for the dues of any other company. There is no mortgage created by the petitioner for the loan facilities availed by any other company. Hence the retaining of title deeds amounts to depriving the petitioner from enjoying his property to its fullest extent as guaranteed under Article 300A of the Constitution of India. The act of the respondents amounts to violation of constitutional rights guaranteed to the petitioner.

(iii) The petitioner itself is having financial constraints and is facing securitization proceedings from another banks. Only if the title deed is released to the petitioner, he will be able to generate funds and survive. The rights guaranteed under the constitution are deprived to the petitioner by the illegal and arbitrary action of the respondents. Unless and otherwise directed by this Hon'ble Court, the respondents will not release the title deeds to the petitioner."

2. The subject issue relates to a loan granted to the petitioner by the Kerala Bank (formerly known as the Kerala State Co-operative Bank Limited). The case projected by the petitioner is that petitioner has paid the entire loan amount, however, the documents provided by the petitioner towards the security are not released.

3. The learned Standing Counsel for the bank submitted that there is yet another loan taken by a partnership firm, in which the petitioner is a partner.

4. In my considered opinion, unless and until sufficient documents are secured by the bank making the petitioner liable for payment of the said loan by mortgaging the property in question, the bank is not entitled to retain any documents forcefully.

5. Therefore, after having heard the learned Counsel for the petitioner, Smt. Reena Thomas, and the learned Standing Counsel for the bank Sri. Gilbert Geroge Correya, and perusing the pleadings and documents on record, there will be a direction to the respondent bank to release the loan documents to the petitioner in so far as the loan in question is concerned, at the earliest, and at any rate, within two weeks from the date of receipt of a copy of this judgment.

The writ petition is disposed of accordingly.

