

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.10.2015

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.33493 of 2015

J.Duraibabu

....Petitioner

Vs.

1.Sub-Registrar-Wallajabad,
O/o Sub Registrar,
Wallajabad, Kanchipuram District.

2.The Special Tahsildar (Land Acquisition)
Oragadam Industrial Park Road,
Sriperumbudur, Kanchipuram District.

3.M/s Indian Overseas Bank,
Rep. By Senior Manager,
Oragadam Branch,
SP Koil Road, Oragadam,
Kancheepuram District-602 105.

... Respondents

Petition is filed under Article 226 of The Constitution of India praying to issue a writ of Mandamus to direct the first respondent to admit registration of the Deed of mortgage by the petitioner of the land situate in S.No.190/28(49/1A3), Sriperumbudur Taluk, Kanchipuram District in favour of the third respondent.

For Petitioner

.. Mr.R.Subramanian

For respondents

.. Mr.R.A.S.Senthilvel,

Addl. Government Pleader for R1&R2

Mr.Benjamin George for R3

ORDER

The petitioner has sought for a loan from the third respondent-Bank for educational purpose. When the property of the petitioner was sought to be mortgaged in favour of the Bank viz., the third respondent, it was not done by the first respondent on the ground that the proceedings under Section 3 (2) of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act 1997 is pending.

2. The learned counsel appearing for the petitioner submitted that no vesting in respect of the petitioner's land had taken place so far. What is sought to be done is only a mortgage. Even otherwise, in the event of failure of the petitioner to repay the loan, the third respondent would be entitled for compensation after acquisition. In any case, the same cannot be a ground for refusing to release the mortgage and especially when it does not involve any transfer of title.

3. The learned Additional Government Pleader appearing for the respondents 1 and 2 submitted that in view of the pendency of the proceedings proposing to acquire the land, the order has been passed refusing to register the mortgage deed and therefore, no interference is required.

4. From the records, it appears that no order has been passed under Section 3(1) of the of the Tamil Nadu Acquisition of Lands for Industrial Purposes Act 1997. From the moment such an order is passed and a notice under Section 3(1) of the said Act is published in the gazette the land would vest with the Government. The only other issue is one of compensation. What the petitioner seeks is to register the mortgage deed, meaning thereby, there is no transfer of title at this stage and is entitled for the compensation to the extent of liability, if any, agreed with by the petitioner on his repayment of the loan, that too, in the event of the said loan being granted. Thus, in the light of the said discussion, the writ petition stands allowed by directing the respondents 1 and 2 to register the mortgage deed as sought for by the petitioner within a period of four weeks from the date of receipt of a copy of this order. It is made clear that the said registration will not have any bearing on the acquisition proceedings initiated with respect to the possession as well as title. No costs.

sd/

ASSISTANT REGISTRAR (CS-VI)

/TRUE COPY/

SUB-ASSISTANT REGISTRAR

raa

To

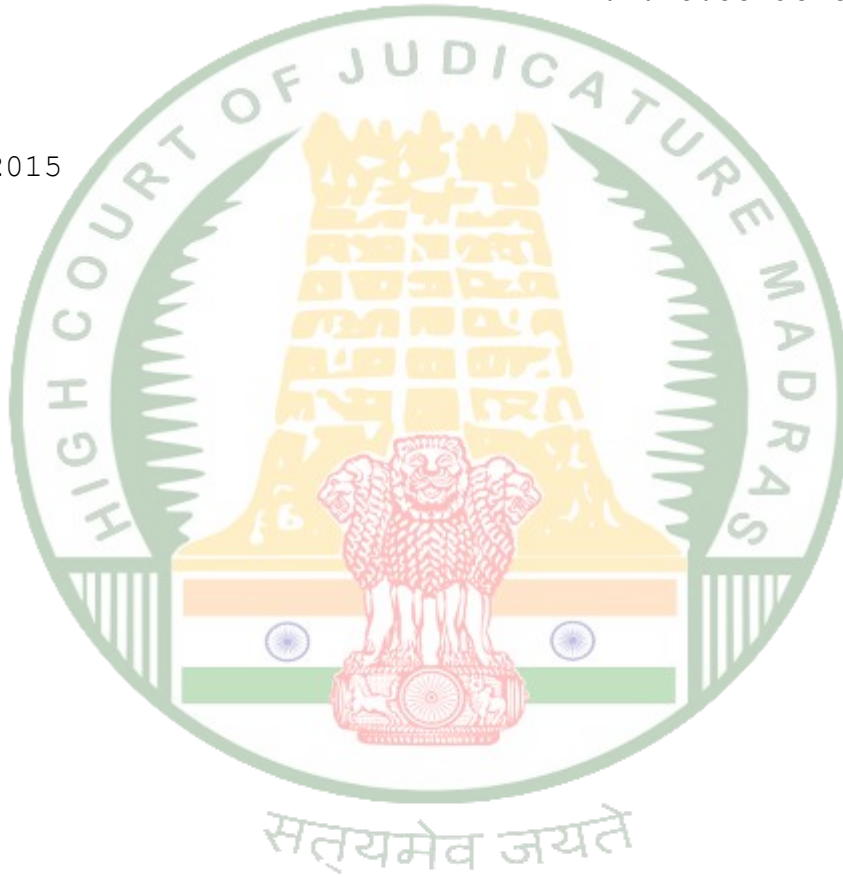
1.Sub-Registrar-Wallajabad,
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2.The Special Tahsildar (Land Acquisition)
Oragadam Industrial Park Road,
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+1 CC to MR.R.Subramanian Advocate. SR.NO. 58740
+1 CC to MR.Benjamin George Advocate. SR.NO. 58911
+1 CC to Govt.Pleader. SR.NO. 58754

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CO-SKV
JD 19/11/2015



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