

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 16.11.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No.40117 of 2016

Jayalakshmi

.. Petitioner

Versus

1. The District Collector,
Tamil Nadu Industries Department,
No.36, South Central Bank,
Raja Annamalaipuram,
Mandaveli,
Chennai-600 028.

2. The General Manager,
District Industrial Centre
Collectorate
Dharmapuri-636 705

... Respondents

Prayer: Writ Petition filed under Article 226 of the constitution of India to issue a Writ of Mandamus directing the 2nd respondent to execute and Register Deed of Discharge/Cancellation, cancelling the Registered Mortgage Deed dated 26.12.1988 registered as Doc.No.14 of 1989 in the office of Sub Registrar, Denkanikottai within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondents : Mr.P.Senthilvel

Government Advocate

O R D E R

By consent, this Writ Petition is taken up and disposed of at the stage of admission itself.

2. It is stated by the petitioner that she is the absolute owner of 6000 sq.ft. of land comprised in Survey No.753/A2A situated at Denkanikottai Village & Taluk, Krishnagiri District. Her husband Ramadoss was a sole proprietor of M/s.Sri Murugan Tiles Works and having business at High School Road, Denkanikottai Taluk. The petitioner's husband approached the second respondent for availing financial assistance to develop the business. Since, her husband did not own any immovable property the second respondent instructed her to join with her husband in the execution of mortgage deed and offer her property

as security for the due repayment of loan to be availed by her husband. Accordingly, the petitioner along with her husband executed a Registered Mortgage Deed dated 26.12.1988 registered as Doc.No.14/1989 at S.R.O., Denkanikottai in favour of the 2nd respondent and thereby a charge has been created over her property. The same is also reflected in the Encumbrance Certificate. It is further stated that entire loan availed under the said Mortgage Deed had been duly discharged by her husband on 15.12.1997. The second respondent had also agreed to execute necessary Deed of Discharge/Cancellation cancelling the Mortgage before the concerned Sub Registrar Officer within a week. Since, the petitioner along with her husband approached the second respondent several times for cancellation of the Registered Mortgage Deed, the second respondent has been evading for the reasons best known to him.

3. The petitioner further states that her husband died on 13.02.2013 and she is unable to develop the said land without any financial assistance. Moreover, the mortgage is also reflected in the Encumbrance Certificate though it was discharged long back. The Sub Registrar, Denkanikottai is unable to delete the same in the absence of written Deed of Discharge/Cancellation from the office of the second respondent. Hence, the petitioner sent a representation to the second respondent dated 30.08.2016, to the Respondents requesting them to execute the necessary Deed of Discharge/Cancellation but they are not doing. Hence, the petitioner has filed this writ petition seeking for the aforesaid relief.

3. Heard the learned counsel for the petitioner as well as the learned Government Advocate, who accepts notice for the respondent.

4. Considering the facts and circumstances of the case and also considering the submissions made herein, this Court, without expressing any opinion on the merits of the case, directs the respondent to consider and pass orders on the representation of the petitioner dated 30.08.2016, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

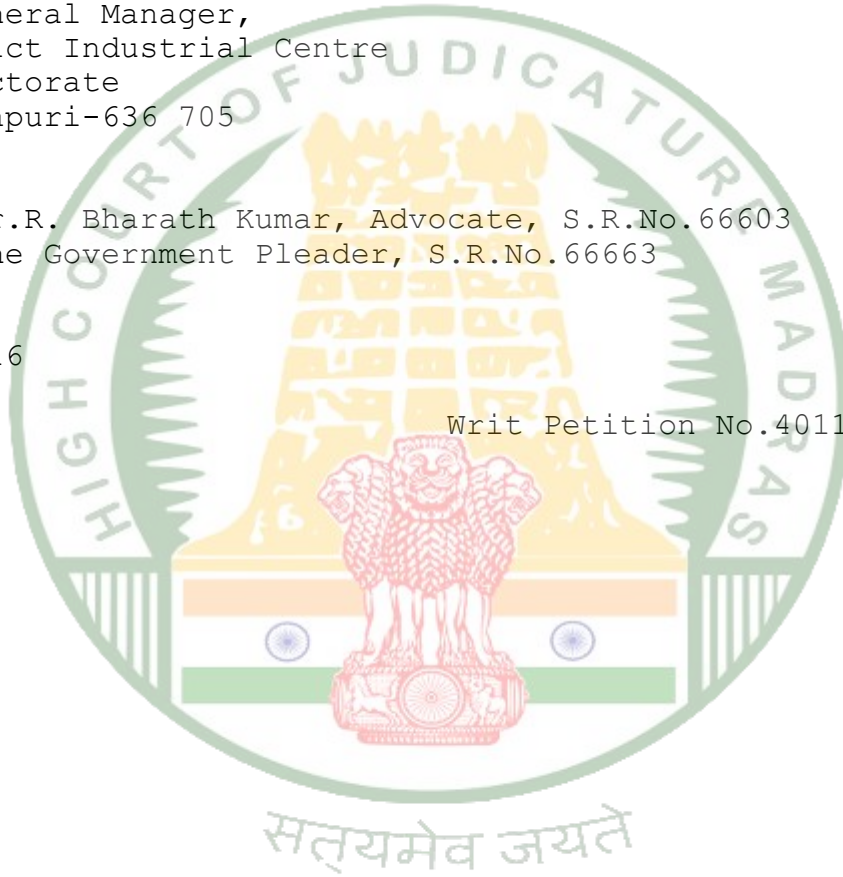
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Dharmapuri-636 705

+lcc to Mr.R. Bharath Kumar, Advocate, S.R.No.66603
+lcc to the Government Pleader, S.R.No.66663

TM(CO)
EU 16.12.16

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