



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.10.2016

CORAM :

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASANWrit Petition (MD) No.19443 of 2016

A.Francis

... Petitioner

Vs.

The Sub Registrar,
Mannachanallur Sub Registrar's Office,
Mannachanallur,
Tiruchirappalli District.

... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent to release the petitioners pending sale deed No.24/2009 dated 08.06.2009 to the petitioner.

For Petitioner	: Mr.Shankar Murali
For Respondent	: Mr.J.Gunaseelan Muthiah Government Advocate.

ORDER

The petitioner has purchased the property in S.F.No.191/1C measuring to an extent of 1 acre 65 cents situated at Madhavaperumalkoil Village, Mannachanallur Taluk, Trichirapalli District and the same was pending registration in sale deed No.24 of 2009, dated 08.06.2009. After registration, the petitioner has approached the respondent for release of the sale deed and the respondent refused to register the sale deed on the ground that some attachment proceedings is pending against the above property. Hence, the present writ petition has been filed.

2.In support of his contention, he has relied upon the following decisions of this Court:

(i)M.Chitra Vs.The Sub Registrar, Vadamadurai, Dindigul District in W.P(MD)No.14388 of 2014, 01.09.2014 and

(ii)S.Praveen Bohra Vs.Joint-I, Sub Registrar (In the cadre of District Registrar), reported in 2016(3) CTC 493.

3.This Court in **S.Praveen Bohra's** case (supra), after relying upon the unreported decision of this Court in **M.Chitra Vs.The Sub Registrar, Vadamadurai, Dindigul District** in W.P(MD)

No.14388 of 2014, dated 01.09.2014, held as follows:-

7. It is also worthwhile to refer to the unreported judgment of Madurai Bench of Madras High Court in W.P.(MD) No.14388 of 2014, dated 01.09.2014, in the case of M.Chitra vs. The Sub-Registrar, relied on by the learned counsel for the petitioner, wherein, in paragraph No.5, it was held as follows:-

"5. In such circumstances, merely because there is an order of attachment passed by a Civil Court, the same cannot be a ground to refuse to register the Memorandum of Deposit of Title Deeds. If any deposit of title deeds is created in respect of the said property pursuant to the right acquired by the petitioner, vide settlement deed, dated 04.07.2011, it is always subject to further orders to be passed by the Civil Court. The petitioner's case is that she acquired title by way of settlement deed dated 04.07.2011, much prior to the order of attachment. Further, the learned counsel appearing for the petitioner placed reliance on Order 38, Rule 10 C.P.C. stating that attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree. The lending bank namely, Canara Bank, Vadamadurai if satisfies with the title of the petitioner over the property, can request the Registrar to register the document. In such circumstances, merely because an order has been passed by the Civil Court effecting attachment, cannot be a bar for entertaining a document for registration. Hence, the reasons assigned by the respondent refusing to register, vide his memo, dated 25.07.2014, is not in accordance with law beyond the scope of Section 71 of the Act".

8.Thus, it is crystal clear that it is well settled principle of law that the order of attachment cannot be a bar to register the document. Therefore, I am of the view that there is no need for this petitioner to file an appeal. I am of the opinion that the sale of the subject property, pending the order of attachment is void only as against the claims enforceable under the order of said attachment and not in respect of other claims. Therefore, I am of the opinion that the sale of the property attached cannot be construed as illegal sale.

9.In the light of the decisions cited supra, the Writ Petition is allowed and the respondent viz., Joint-I Sub-Registrar, Coimbatore, is directed to register the document and release the registered document in favour of the petitioner, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected



4. In view of the above settled legal position, the respondent is directed to register the document within a period of four weeks from the date of receipt of a copy of this order.

5. The writ petition is disposed accordingly. No costs.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

The Sub Registrar,
Mannachanallur Sub Registrar's Office,
Mannachanallur,
Tiruchirappalli District.

+ 1 CC TO Mr. SHANKAR MURALI, ADVOCATE IN SR No. 61447
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 61404

SMS

TE/SK-SKN/SAR-III : 26/10/2016 : 3P/4C

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