

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HON'BLE MR.JUSTICE B.RAJENDRAN

W.P. No. 5465 of 2017

Selvaraj @ S.S.Raj

... Petitioner

Versus

1.The Inspector General of Registration
Santhome High Road,
Chennai.

2.The District Registrar
Registration Department,
Kanyakumari District.

3. The Sub Registrar,
Thiruvattar Sub-registration office,
Marthandam Registration District,
Kanyakumari District.

4. P.V.Sree Dinesh

... Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the 1st respondent to issue appropriate direction to the respondents 2 and 3 to remove the entry of the order of attachment dated 09.10.2013 from the encumbrance as against the petitioner's properties at Re-Survey No.388/7A1 measuring 5 cents and Re-Survey No.388/6 measuring 12.5 cents, Thumbakadu Village, Kallakulam Taluk, Kanyakumari District based on the petitioner's representation dated 04.02.2017, within a time frame.

For Petitioner : Mr. N.C. Ashok Kumar

For Respondents: Mr. A.N. Thambidurai

Special Government Pleader

ORDER

The petitioner seeks for issuing a Writ of Mandamus to direct the first respondent to issue appropriate direction to the respondents 2 and 3 to remove the entry of the order of attachment dated 09.10.2013 from the encumbrance as against the petitioner's properties at Re-Survey No.388/7A1 measuring 5 cents and Re-Survey No.388/6 measuring 12.5 cents, Thumbakadu Village, Kallakulam Taluk, Kanyakumari District based on the petitioner's representation dated 04.02.2017, within a time frame.

2. The case of the petitioner is that the fourth respondent herein has filed a suit in O.S. No. 1785 of 2012 on the file of the learned XII Assistant City Civil Court, Chennai for recovery of Rs.9,94,500/- against the petitioner. In the said suit, even though the petitioner was not residing at Chennai, an address at Chennai, where the petitioner was allegedly residing, was given and ultimately, the fourth respondent secured an exparte decree on 27.08.2012. To execute the exparte decree, the petitioner has filed EP No. 767 of 2013 in O.S. No. 1785 of 2012 praying to attach the properties of the petitioner and accordingly on 10.10.2013 attachment was ordered and it was shown as an encumbrance over the property of the petitioner. Ultimately, at the time of final hearing of the Execution Petition, it was found that the properties are situate at Kanyakumari, therefore, the Court at Chennai has no jurisdiction and therefore, the Execution Petition was transferred to the District Court, Kanyakumari. Resultantly, the Execution Petition was closed on 21.01.2014. On coming to know the exparte decree, the petitioner has filed I.A. No. 6023 of 2015 in O.S. No. 1785 of 2012 to condone the delay in filing the application to set aside the exparte decree. The said application was dismissed against which the petitioner has filed CRP No. 4039 of 2016 before this Court and this Court granted interim stay on 23.12.2016 on condition to deposit Rs.10,00,000/- and the conditional order was also complied with by the petitioner.

3. The grievance of the petitioner is that now he has filed an application to set aside the exparte decree and it culminated in the order dated 23.12.2016 passed by this Court. The petitioner has also complied with the condition to deposit Rs.10,00,000/-. By highlighting the above facts, the petitioner has submitted a representation dated 04.02.2017 to the respondents seeking to raise the order of attachment which was shown as an encumbrance in the property owned by him, however, the said representation has not been considered and hence, he has filed this writ petition.

4. I heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondents. Taking into consideration that the petitioner has already deposited Rs.10 lakhs as per order of this Court dated 23.12.2016 and the representation dated 04.02.2017 is pending consideration of the respondents, without expressing any opinion on merits, the first respondent is directed to consider the representation dated 04.02.2017 of the petitioner and to pass orders thereon on merits and in accordance with law, within a period of Eight weeks from the date of receipt of a copy of this order.

5. With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

dpq/rsh

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai.

2. The District Registrar,
Registration Department,
Kanyakumari District.

3. The Sub Registrar,
Thiruvattar Sub-registration office,
Marthandam Registration District.

+lcc to Mr.M. Narayanaswamy, Advocate, S.R.No.18144
+lcc to the Government Pleader, S.R.No.18327

KJI(CO)
Eu 22.3.2017

सत्यमेव जयते

W.P.No. 5465 of 2017

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