



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2017

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHANW.P.(MD) No.20367 of 2017

Dr.J.Mathan

... Petitioner

-Vs-

The Sub Registrar,
Pudukkottai,
Tuticorin District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondent to delete the charge created in respect of the petitioner's property in S.No.511/1C, in Patta No.3488 to an extent of 3.24 cents situated Plot No.1, P.M.S.Nagar, Kumarakiri @ Pudukkottai Village, Tuticorin District from the list of Encumbrance within the time frame stipulated by this Court.

For Petitioner : Mr.R.Vijayakumar

For Respondent : M.Alagu Deevan

O R D E R

The grievance of the petitioner is that a charge has been created over the property purchased by him vide sale deed dated 17.12.2013. The petitioner's document has also been released. However, when he applied for encumbrance certificate, he was shocked to know that a charge has been created for a sum of Rs.95,372/- towards deficit stamp duty. It is the specific contention of the writ petitioner that no proceeding under section 47(A) of the Stamp Act has been initiated in this regard.

2.The learned counsel would further contend that even a mere initiation of said proceedings is not sufficient to create a charge over the property. Only if an order directing the purchaser to pay deficit stamp duty on the ground of under valuation has been made then alone, a charge can be created and in this case, no such order has been passed. In fact, even proceedings under section 47 (A) has not been initiated. It is therefore, not known as to how a charge was created over the said property. The creation of charge is not only arbitrary but also illegal. This Court therefore directs the respondent to delete the charge created in respect of the petitioner's property in S.No.511/1C, in patta No.3488, to an extent of 3.24 cents, situated at Plot No.1, PMS Nagar, Kumarakiri @ Pudukkottai Village, Tuticorin District.



3. Accordingly, this writ petition is allowed. The writ petitioner is entitled to cost of Rs.10,000/-. The said cost shall be recovered from the salary of the official who has illegally created such a charge.

/True Copy/

Sd/-
Assistant Registrar (Records)

Sub-Assistant Registrar

To

The Sub Registrar,
Pudukkottai,
Tuticorin District.

+One cc to Mr.R.Vijayakumar, Advocate, SR.No.85673

+One cc to The Special Government Pleader, SR.No.86003

cp/vsg
RL/4C/2P/MR/KKR/SAR2/20/11/2017

W.P. (MD) No.20367 of 2017

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