IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.10.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No. 23617 of 2018

P. Meenakshisundaram — Petitioner

Vs

The Sub Registrar
Rasipuram
Namakkal District — Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue writ of certiorarified Mandamus to call for the records of the respondent in his proceeding in Na.Ka.No.NIL, dated 15.12.2017 and quash the same and direct the respondent to cancel the court auction entry in the Encumbrance Certificate as per the representation of the petitioner dated 12.12.2017 (vide C.R.P. No.2405 of 1994 dated 11.12.1996) in respect of the petitioner property in S.No.46/5 Nanjai Acre 0.72 and S.No.78/1 Nanjai No.1.04 acre in Block No.10 in T.S.No.4/3, in Rasipuram town, Rasipuram Taluk, Namakkal District.

सत्यमेव जयते

For Petitioner : Mr.K.R. Krishnan

For Respondent : Mr. M. Thamilzharasan

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ORDER

The relief sought for in the present writ petition is to call for the records of the respondent relating to the proceedings in Na.Ka.No.Nil dated 15.12.2017 and quash the same and consequently, direct the respondent to cancel the Court

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auction entry in the Encumbrance Certificate, in respect of the petitioner's properties in S.Nos.46/5 and 78/1 in Block No.10 in T.S.No.4/3 in Rasipuram town, Rasipuram Taluk, Namakkal District, as per the order of this Court dated 11.12.1996 passed in C.R.P. No.2405 of 1994, based on the representation of the petitioner dated 12.12.2017.

2. Upon notice, the respondent filed a detailed counter affidavit, wherein at Paragraphs 8,9 and 10, it has been stated as follows :-

"8. It is pertinent to submit that the petitioner's application to cancel the entry of Encumbrance Certificate, time took by to made within four months from the date of Court order dated 12.12.1996 and further grace period of eight months from the date of court order on 11.12.1996. Hence, this respondent rejected the petitioner's request to cancel the entry of Encumbrance from the records.

9. It is further submitted that as per Sections 23, 24, 25 and 26 of the Indian Stamp Act, 1908, any entries made in the Encumbrance records the time limits are four months from the date of passing the Hon'ble Court orders.

10. It is submitted that hence the party / concern person should have submitted documents for entries before the concerned authority within the stipulated time (i.e.) on or before four months on the date of passing orders of Hon'ble Courts. In this regard Hon'ble High Court, Madras passed order as early as 11.12.1996 in R.E.P. No.144/1981 in O.S. No.812/1973 and this petitioner made an application on 12.12.2017 after nearly twenty one years before this respondent requesting this respondent to cancel the entry in the Encumbrance Certificate. Hence, the respondent rightly rejected the petitioner's request".

3. In view of the averments so made in the counter affidavit filed by the

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respondent, the learned counsel for the petitioner submitted that the petitioner may be granted liberty to approach the Sub Registrar concerned with appropriate application for the relief sought in this writ petition.

4. The learned counsel for the respondent has no objection for granting such relief to the petitioner.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, the writ petition stands disposed of, granting liberty to the petitioner to file such application before the Registrar concerned within a period of two weeks from the date of receipt of a copy of this order and on such filing, the same shall be considered and appropriate order be passed by the Sub Registrar concerned, on merits and in accordance with law, within a period of four weeks thereafter. No costs.

22.10.2018

Index: Yes/No
Internet : Yes / No
Speaking / Non speaking
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To
The Sub Registrar
Rasipuram
Namakkal District.

R.MAHADEVAN, J.

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