

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.02.2018****CORAM:****THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN****W.P. (MD) No.652 of 2018**

M.Rajith @ Sooraiyan

... Petitioner

-Vs-

The Sub Registrar,
Sub Registrar Office,
Aruppukottai,
Virudhunagar District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to receive and register the deed of mortgage dated 17.11.2017 executed by the petitioner in favour of one Mr.Kumaravel with respect to the property in RS.No.151/1 measuring 3 acres 4 cents in Kovilamkulam Village, Aruppukottai Taluk, Virudhunagar District within the time stipulated by this Court.

For Petitioner

: Mr.S.Poorna Chandran

For Respondent

: Mrs.J.Padmavathi Devi,
Special Government Pleader.**ORDER**

The Writ Petition has been filed, seeking a direction to the respondent to register the mortgage deed executed by the petitioner dated 17.11.2017.

2.According to the petitioner, the petitioner along with one Thavasi Raj jointly purchased the property in RS.No.151/1 measuring an extent of 3 acres 4 cents situated at Kovilamkulam Village, Aruppukottai Taluk, Virudhunagar District. Subsequently, the above said co-owner of the property has given a power of attorney in favour of the petitioner to alienate or encumber the property. By virtue of the power of attorney executed in his favour, now, the petitioner wants to mortgage the above property in favour of one Kumaravel. For that purpose, he executed a mortgage deed on 17.11.2017 before the respondent. But, the respondent refused to receive the same on the ground that in



respect of the above said property, another writ petition is filed by one Subbaraj before this Court. Hence, the present Writ Petition has been filed.

3. The learned counsel for the petitioner submitted that the joint owner of the property, namely, Thavasi Raj has given a power of attorney in favour of the petitioner to alienate or encumber the property. By virtue of the power of attorney executed in his favour, now, the petitioner wants to mortgage the above property in favour of one Kumaravel and as on date, there is no Court order for attaching the property or no legal impediment for registering the mortgage deed. But, the authorities refused to register the same on the ground that some other writ petition has been filed seeking a direction to the respondent not to register any document in respect of the above said property, which is pending before this Court.

4. Under these circumstances, the said writ petition in W.P. (MD) No. 17390 of 2017 is directed to be posted along with this writ petition.

5. The learned counsel for the petitioner in W.P. (MD) No. 17390 of 2017 submitted that the son of the above co-owner, namely, Nagarajan has misappropriated huge amount of money and a criminal case is also pending against him. By using the above ill-gotten money, the property has been purchased by the said Thavasi Raj along with the petitioner.

6. I have heard the learned counsel for the petitioner as well as the learned Special Government Pleader appearing for the respondent and also perused the materials available on record carefully.

7. It is the admitted case that no criminal case was registered by the police for misappropriation of amount neither against the petitioner nor the Thavasi Raj as on date, and none of the property has been attached by any authorities. At this stage, it cannot be presumed that the property has been purchased by the said Thavasi Raj from out of the money alleged have been misappropriated by his son. In the above circumstances, if at all the investigation reveals that the the said property is purchased by the defalcated amount, it is always open to the authorities to take appropriate action.

8. Admittedly, there is no criminal case is pending against the Thavasi Raj, there is no legal impediment for registering the mortgage deed. In the above circumstances, the respondent is directed to register the mortgage deed submitted by the



9. Accordingly, this Writ Petition is disposed of. No costs.

WEB COPY

Sd/-
Assistant Registrar (Ad-I)

/True Copy/

Sub Assistant Registrar

To

The Sub Registrar,
Sub Registrar Office,
Aruppukottai,
Virudhunagar District.

+1cc to The Spl. Government Pleader Sr.No.46581
+1cc to Mr.S.Poorna Chandran, Sr.No.46412

MYR

VB/SV/MMS/SAR4/23.02.2018/3P/4C

W.P (MD) No.652 of 2018
05.02.2018