

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.27088 of 2016
and
W.M.P.No.23263 of 2016

R.Natarajan

... Petitioner

Versus

1.The District Registrar (Administration),
Office of Registration,
Namakkal,
Namakkal District.

2.Sakthivel

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned order passed by the 1st respondent in his proceedings Na.Ka.No.3563/A1/2016 dated 27.06.2016 and quash the same and consequently directing the 1st respondent to remove the 2nd respondent's name from the Encumbrance Certificate made in Document No.191/2004 dated 06.02.2004 on the file of the 1st respondent.

For Petitioner : Mr.C.Prakasam

For R1 : Mr.N.Inbanathan,
Additional Government Pleader

O R D E R

The Writ petition has been filed challenging the order of the first respondent refusing to remove the entry in the Encumbrance Certificate.

2. There is an agreement dated 06.02.2004 between the petitioner and the second respondent for sale fixing the

time limit as one year. Despite the request made, the second respondent has not come forward to pay the balance amount and get the sale executed. As the said agreement is a registered one, it is reflected in the Encumbrance Certificate. Therefore, the petitioner made a representation dated 14.06.2016 before the first respondent sought for removal of second respondent's name in the Encumbrance Certificate made in Document No.191/2004 and the same was refused. Hence, the petitioner is before this Court.

3. Heard the learned counsel appearing on both sides.

4. Being a registered instrument, which is bilateral document, it is open to the petitioner to terminate the agreement and get the same determined by the Competent Court of Law. Seeking a direction to the first respondent to delete the entry, is not possible. Hence, the first respondent had rightly rejected the request of the petitioner. The encumbrance, which is already recorded can only be removed either by the decree of the Court or by registered instrument cancelling the same. Therefore, there is no reason to interfere with the impugned order passed by the first respondent.

5. With the above observations, the Writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSiii)

//True Copy//

Sub Assistant Registrar

rsi

To

The District Registrar (Administration),
Office of Registration,
Namakkal,
Namakkal District.

+1cc to Mr. C.Prakasam, Advocate SR.No. 17779
+1 cc to Government Pleader SR.NO. 18239

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and

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A.SK (04/04/2019)