

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.10.2019

CORAM

THE HON'BLE MR JUSTICE T.RAJA

W.P.No.38908 of 2016  
and WMP No.25981 of 2017

A.P. Mohan

... Petitioner

Vs

1. The Sub Registrar,  
Triplicane,  
Chennai - 600 005

2. The Tahsildar,  
Mylapore Taluk,  
Chennai - 600 005

3. The Official Assignee,  
High Court,  
Chennai - 600 104

4. V. Sridharan

.... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Mandamus directing the respondents 1 and 2 to rectify the Deed of Sale executed by the Official Assignee in favour of the petitioner, registered as Document No.201 of 2014 on 18.02.2014 in the Office of the first respondent by amending Survey Number stated in the Deed aforesaid, in respect of the property conveyed therein as 929/36-Part II instead of 329/1A and to carry out the amendments in all the records concerned in the office of the first respondent and to issue a Certificate to that effect of rectification to the petitioner.

(Prayer amended as per the Order of this Court dated **\*18.10.2019** in WMP No.4998 of 2019)

For petitioner : Mr.R. Lakshminarayanan

For R.1 : Mr.P.P. Purushothaman  
Government Advocate

For R.2 : Mr.V. Shanmugasundar  
Special Government Pleader

3<sup>rd</sup> respondent : Mrs.V. Uma  
Official Assignee

ORDER

This Writ Petition is filed for issuance of a Writ of Mandamus directing the respondents 1 and 2 to rectify the Deed of Sale executed by the Official Assignee in favour of the petitioner, registered as Document No.201 of 2014 on 18.02.2014 in the Office of the first respondent by amending Survey Number stated in the Deed aforesaid in respect of the property conveyed therein as 929/36-Part II instead of 329/1A and to carry out the amendments in all the records concerned in the office of the first respondent and to issue a Certificate to that effect of rectification to the petitioner.

2. During the pendency of the Writ Petition, an Amendment Petition has been filed in WMP No.4998 of 2019 amending the Survey Number as 929/36/Part II in Door No.324, Old Door No.220, Triplicane High Road, Mylapore Taluk and to carry out the amendments in all the records and the same was allowed by this Court by Order dated 18.10.2019.

3. Learned counsel for the petitioner submits that one Mr.V. Sridharan/fourth respondent herein, was owning a Tea Shop to an extent of 130 sq.ft bearing Door No.324, Old Door No.220, Triplicane High Road, Chennai-5. As the fourth respondent was adjudged as insolvent, the said property was brought for sale by the Official Assignee/third respondent herein.

4. The petitioner took part in the public auction, held on 29.08.2013 and consequently, he was declared as highest bidder. Thereafter, the sale was confirmed by this Court on 04.10.2013 in Application SR No.1174 of 2013. In pursuance of confirmation of sale, the Official Assignee/third respondent herein, executed a Deed of Conveyance on **18.02.2014** in respect of the above said property. The Deed of Conveyance, executed by the third respondent in favour of the petitioner, was registered in the Office of the Sub Registrar, Triplicane/the first respondent herein, as Document No.201/2014 on 18.02.2014. Subsequently, it came to light that R.S. Number of the property was wrongly mentioned in the Deed of Conveyance as 329/1-A instead of 929/1A. The petitioner came to know about the same only when he approached the Tahsildar/second respondent herein for getting patta to the said property.

5. Finding that there was an error in mentioning the Survey number, a letter was addressed to the Official Assignee/third respondent herein on 10.06.2015 with a request to rectify the mistake by executing a Deed of Rectification. But, the Deputy Official Assignee in the Office of the third respondent sent a reply to the petitioner on 31.08.2015 stating that the 'property bearing R.S.No.329/1A was relinquished in favour of the insolvent by the petitioner's father viz., Venkatakrishnan along with his brothers **Anantharaman** and Seetharaman by virtue of Release Deed dated **27.07.1983**. Subsequently, the insolvent also created a Mortgage in respect of the same property, which was released in his favour bearing R.S.No.329/1A to one Kuppammal. When the property was relinquished in favour of the insolvent by a Release Deed, which was sold in public auction, the Official Assignee has no manner of right to execute the Deed of Rectification as there is no need for rectification.

6. Thereafter, the petitioner filed an Application No.344/2015 in **I.P.No.74 of 1999** praying that the Official Assignee/third respondent herein, may be directed to execute a Deed of Rectification for making necessary amendment in R.S.No.929/1A instead of R.S.No.329/1A in the Deed dated 18.02.2014, executed by the Official Assignee/third respondent herein in favour of the petitioner, which was also registered as Document No.201/2014 on the file of Sub Registrar, Triplicane.

7. This Court, by Order dated 15.02.2016, in Appln No.344 of 2015 in I.P.No.74 of 1999 passed the following Order:

" The learned counsel for the applicant seeks time to produce a Certificate from the concerned Tahsildar to the effect that the property mentioned in "C" Schedule attached to the partition deed dt 4.8.1973 was the property given on mortgage to the Central Bank of India which was claimed in Claim No.705/2000 and subsequently sold to the applicant by the Official Assignee. The Certificate should indicate both the properties are one and the same."

8. Thereafter, the petitioner addressed a letter to the Tahsildar/second respondent herein on 04.03.2016 requesting him to issue a Certificate, as directed by this Court. The Second respondent by his letter No.A2/3170/2016 dated 08.08.2016 issued

the Certificate stating that the property mentioned in "C" Schedule attached to the Partition Deed dated 04.08.1973 and the property given on mortgage to Central Bank of India which was claimed in Claim No.705/2000 are one and the same as per the records comprised in Mylapore Taluk, Triplicane Village, Block No.23 in R.S.No.929/1A.

9. In view of the above, this Court by Order dated 17.08.2016 in Application No.344 of 2015 in **\*I.P.No.74 of 1999** directed the petitioner to approach the Writ Jurisdiction, since the Official Assignee/third respondent submitted that the Certificate issued by the Tahsildar/second respondent is contrary.

10. Finally, it is stated that when the petitioner has been declared as highest bidder in the public auction and he has become owner of the property, belonging to the insolvent, as per law, the sale deed executed on the file of Sub Registrar, Triplicane bearing Document No.201 of 2014 on 18.02.2014, should convey the right title of the property, sold in public auction, by the Official Assignee/third respondent herein, so that the petitioner who was declared as highest bidder in the auction, held on 29.0.2013, would be able to enjoy the property, in question.

11. Mrs.V. Uma, Official Assignee, High Court, Madras has also filed a Report dated 24.04.2019 and the same has been placed on record.

12. A perusal of the Report shows that originally, when the property was partitioned, in the Deed of Partition, R.S. Number was correctly mentioned as 929/1A in Document No.794/1973 and again when the property, in question, was partitioned in favour of the insolvent viz., V. Sridharan vide Document No.554/1983 (Deed of release of Partition Right) R.S. Number was mentioned as 329/1A instead of 929/1A. In the Mortgage Deed, it was mentioned as R.S.No.329/1A vide Document No.557/1983 and that is the reason why while executing the Sale Deed by the Official Assignee/third respondent herein in favour of the petitioner on 18.02.2014, R.S. Number has been shown as 329/1-A.

13. Subsequently, when the petitioner moved an application in Application No.344/2016 in I.P.No.74/1999, seeking for a direction to the Official Assignee/third respondent herein to execute Deed of Rectification for making necessary amendment in R.S.No.929/1A instead of R.S.No.329/1A in the Deed of Sale dated 18.02.2014, executed by the Official Assignee in favour of the petitioner, registered as Document No.201/2014, this Court, by

Order dated 17.08.2016, in Application No.344 of 2015 in **\*I.P.No.74/1999** , gave liberty to the petitioner to file appropriate petition in the form of writ petition by showing the jurisdiction.

14. Subsequently, when the matter came up for hearing on 03.04.2019, this Court directed the Official Assignee/third respondent herein to ascertain the details of the property as to whether it is conveyed in Survey No.929/1A instead of 329/1A, which the second respondent can resolve by comparing the survey numbers in the FMB Sketch Book and making a spot inspection and to file a report before this Court on or before 25.04 2019.

15. Accordingly, the Tahildar/second respondent herein undertook personal inspection to ascertain the correct Survey Number along with Head Surveyor and compared the survey number of the subject property with Field Measurement Book, Sketch as per the revenue records. The Tahildar, on personal inspection of the property, filed a Report to the Official Assignee/third respondent on 24.04.2019 in Re.Lr.No.A2/1503/2019, in which, he has stated as follows:

" In this regard, it is humbly stated that, the immovable property of the insolvent, land and tea shop building situated at New Door No.324, Old Door No.220, Triplicane High Road, Chennai was inspected by the Deputy Inspector of Surveyor of Mylapore Taluk and ascertain that the land and tea shop building situated in Bloc No.23, R.S.No.929/36 of Triplicane Town (Part-II) in Mylapore Taluk and also compared this survey number with Block Map (Field Measurement Book) maintained in this Office is found correct.

Further it is requested that the above fact may please be appraised before the Hon'ble High Court of Madras.

Yours faithfully,

Tahsildar  
Mylapore Taluk  
Chennai-28

16. It has come to light that the land and tea shop situate in Block No.23 in R.S.No.929/36/Part II at Triplicane Town in Mylapore Taluk. Since the Tahsildar/second respondent herein has made a personal inspection and the Official Assignee has also submitted a Report, this Court, hereby directs the Official Assignee/third respondent herein to execute a Deed of Rectification among the property sold in public auction in favour of the petitioner indicating the R.S.Number as 929/36/Part II at Triplicane Town in Mylapore Taluk.

17. On receipt of Rectification Deed, the Sub Registrar, Triplicane, Chennai-5/the first respondent herein is directed to accept and execute the same and may be given to the petitioner.

18. In the light of the above, this Court, finds no impediment to accept the prayer of the petitioner.

19. Accordingly, the Official Assignee/third respondent is hereby directed to execute a Rectification Deed of Conveyance, mentioning that the land and Tea Shop situate in Block No/23, measuring an extent of 130 sq.ft bearing New Door No.324, Old Door No.220, Triplicane High Road, Chennai-600 005 carries R.S.No.929/36/Part II of Triplicane Town in Mylapore Taluk.

20. On receipt of Rectification Deed from the Official Assignee, High Court, Madras, the Sub Registrar, Triplicane, Chennai-5/the first respondent herein is directed to register the same in favour of the petitioner. Such exercise shall be done within a period of three weeks from the date of receipt of Rectification Deed from the Official Assignee, High Court, Madras.

21. With the above direction, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

Dated: 11.02.2020

**\* Amended as per order dated  
04.03.2020 in W.P.No.38908/2016  
sd/- Assistant Registrar(CS-I)  
Dated: 06.03.2020**

//True Copy//

Sub Assistant Registrar

sr

To

1.The Sub Registrar,  
Triplicane,  
Chennai - 600 005

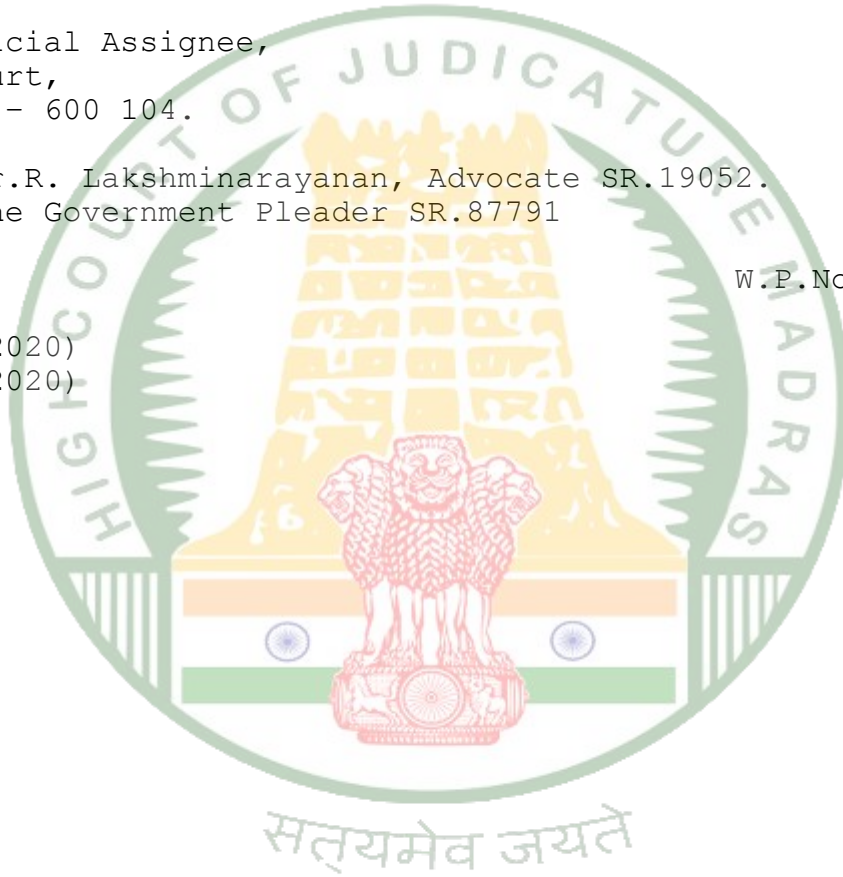
2.The Tahsildar,  
Mylapore Taluk,  
Chennai - 600 005

3.The Official Assignee,  
High Court,  
Chennai - 600 104.

+2cc to Mr.R. Lakshminarayanan, Advocate SR.19052.  
+1cc to the Government Pleader SR.87791

W.P.No.38908/2016

GJ(CO)  
CB(11/02/2020)  
SP(06/03/2020)



WEB COPY