

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 19.09.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Writ Petition No.22038 of 2019
and W.M.P.No.21298 of 2019

Kishore M.Menon

.. Petitioner

/versus/

The Sub Registrar,
O/o.The Sub Registrar,
Neelankarai Sub Registration Office,
Neelankarai,
Chennai - 600 041

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus , praying to call for the entire records relating to the impugned proceedings in RFL/Neelankarai/3/2019, dated 30.03.2019 of the respondent and quash the same and consequently direct the respondent to register the Lease Deed dated 30.03.2019 presented by the petitioner for registration with the respondent.

For Petitioner : Mr.V.AthiKesavan
for M/s.McGan Law Firm

For Respondents : Mr.T.M.Pappiah
Special Government Pleader

ORDER

By consent, the main writ petition is taken up for final disposal at the admission stage itself.

2. Heard Mr.V.AthiKesavan, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, Special Government Pleader, who takes notice on behalf of the respondent.

3. The prayer in the writ petition is to issue a Writ of Certiorarified Mandamus, to call for the entire records relating to the impugned proceedings in RFL/Neelankarai/3/2019, dated 30.03.2019 of the respondent and quash the same and consequently direct the respondent to register the Lease Deed dated 30.03.2019 presented by the petitioner for registration with the respondent.

4. The learned counsel for the petitioner submits that the petitioner wants to register the lease deed, which was not accepted by the Registration Department in view of the encumbrance found in the document indicating that the property has been mortgaged by deposit of title deed in favour of M/s.Capital First Limited. Hence, the Sub Registrar, Neelankarai has directed the petitioner to get No Objection Certificate from the Financier Company, which has charge over the property.

5. This writ petition is filed on the presumption that the Sub Registrar/respondent herein cannot ask for No Objection Certificate of the mortgagee, when subsequent transfer by way of lease sought to be effected. This Court is unable to accept the said submissions. Though, it is contended by the learned counsel for the petitioner that possession is not given to the financier, under the mortgagee, the financier ought to know that the property which has been given as security is now been leased to 3rd party. Therefore, the request of the Sub Registrar and to get No Objection Certificate from the financier cannot be faulted. Further, the petitioner has not impleaded the financier as a party. Without hearing the financier who is a necessary party, order passed behind his back will be detrimental to his interest.

6. Hence, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

The Sub Registrar,
O/o.The Sub Registrar,
Neelankarai Sub Registration Office,
Neelankarai, Chennai - 600 041.

+1cc to M/s.McGAN LAW FIRM, Advocate Sr.No.80978

AKM/25.10.19 /2P-3C/

W.P.No.22038 of 2019