



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SUNDAR

W.P (MD)No.2145 of 2012

M/s.Platinum Textiles Limited,
(Previously Known as Neha Furnishings Private Limited),
Rep. by its Manager, Authorized Signatory,
T.M.Prasath ... Petitioner
Vs.

1.The Sub-Registrar,
Keeranur, Palani.

2.M/s.Sri Gururaja Cotton Company,
Rep. by its Sole Proprietor,
Sri Polavar Prasad,
P.Chinnaguruvaiah.

3.Sri Shanmuga Textiles Private Limited,
Rep. by its Managing Director,
V.Srinivas. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the first respondent to cancel the entry dated 09.01.2009 registering the order dated 19.12.2008 at the instance of the second respondent on our property comprised in Survey Nos.966/A2, 966/A3 and 965/1 at Thalaiyuthu Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.S.Anwar Sameem
for Mr.E.Udhaya

For R - 1 : Mr.M.Murugan,
Government Advocate.

For R - 2 : Mr.AL.Ganthimathi

ORDER

Mr.S.Anwar Sameem, learned counsel representing counsel on record for writ petitioner, Mr.M.Murugan, learned Government Advocate on behalf of first respondent (official respondent) and Ms.AL.Gandhimathi, learned counsel on behalf of second respondent (private respondent) are before this Court.



2.To be noted, third respondent (private respondent) was original owner of the property which is subject matter of this *lis*, but there is no disagreement that writ petitioner had purchased that property from third respondent on 18.09.2007 vide two sale deeds both dated 22.09.2007 and registered as Document Nos.2209 and 2210 of 2007 on the file of first respondent. Therefore, third respondent has divested itself of its interest in the property. This Writ Petition can be disposed of by passing an order which is not adverse to the rights of third respondent. Therefore, instant main Writ Petition is taken up with the consent of aforementioned counsel ie., counsel for writ petitioner, State Counsel and counsel for second respondent.

3.Instant main writ petition has been filed with a prayer to direct the first respondent to cancel an entry dated 09.09.2009 made in Encumbrance Certificate wherein and whereby an order of attachment made by jurisdictional civil Court on 19.12.2008 has been shown as an entry.

4.To be noted, 'immovable property which is subject matter of instant Writ Petition is comprised in Survey Nos.966/A1, 966/A2, 965/1B, 966/A3 of Thalaiyuthu Village, Palani Taluk, Dindigul District' (hereinafter referred to as 'said property' for brevity).

5.In the counter-affidavit, it is submitted that second respondent has filed a suit, but suit number has not been mentioned. At the hearing, learned counsel for second respondent submitted that suit in O.S.No.23 of 2003 has been filed on the file of Civil Court in Nandial, Andhra Pradesh, there was transmission of decree after which Execution Petition was launched by second respondent in EP.No.123 of 2009 on the file of Fast Track Court, Dindigul.

6.What is of significance is, writ petitioner on coming to know about the execution proceedings has filed an application being E.A.No.31 of 2012, with a prayer for raising the attachment. It has also been averred that writ petitioner has offered Bank guarantee in Executing Court for raising attachment, but it is not necessary to dilate further on facts considering the limited scope of instant Writ Petition. Deletion of entry which is the main prayer directly depends on the outcome of the proceedings in the civil Court. Writ petitioner has already approached the jurisdictional civil Court with a suitable prayer. Therefore, it will suffice if instant Writ Petition is disposed of by holding that the matter ie., plea for deletion of attachment entry shall be carried to its logical end depending on outcome in aforementioned proceedings in the jurisdictional civil Court. Though obvious, it is made clear that rights and contentions of parties ie., writ petitioner and second respondent are left open to be agitated and concluded in the civil Court.



7.Writ Petition is disposed of recording the abovesaid obtaining position. No costs.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

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To

The Sub-Registrar,
Keeranur, Palani.

+1 CC to Mr.I.IRULLAPPAN, Advocate (SR-101201[F] dated 26/11/2019)

+1 CC to M/s.AL. GANTHIMATHI, Advocate (SR-101180[F] dated
26/11/2019)

+1 CC to M/s.SPL GP (SR-101956[F] dated 27/11/2019)

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