



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.04.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9130 of 2018
and
WMP(MD)No.8509 of 2018

Harihar Alloys Pvt Ltd.,
Rep.by its Chairman,
R.Thirunavukarasu

... Petitioner

Vs.

1.The Inspector General of Registration,
Office of the Inspector General of
Registration,
100, Santhome High Road,
Mylapore, Chennai - 600 028.

2.The District Registrar,
Pudukkottai District.

3.The Sub Registrar,
Viralimalai Sub Registrar Office,
Viralimalai Sub Registration District,
Pudukkottai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the third respondent to cancel the encumbrance entry recorded by it pertaining to alleged deficit stamp duty of Rs.95,000/- and deficit registration fee of Rs.15,000/- totaling Rs.1,10,000/- in respect of the Memorandum of Deposit of Title Deed dated 30.08.2016 (document number 1779 / 2016) and direct the third respondent to register the Memorandum of Deposit of Title Deed dated 20.03.2018 by accepting the stamp duty of Rs.25,000/- and registration fee of Rs.5,000/-.

For Petitioner : Mr.J.Maria Roseline

For Respondents : Mr.V.Murugan,
Government Advocate
For R1 to R3

ORDER

Heard the learned counsel on either side.



2.The writ petitioner is the owner of the property in question. The writ petitioner had availed credit facility by mortgaging the property in question. In the encumbrance certificate however an entry has been made indicating that there is a liability to pay deficit stamp duty to the tune of Rs.1,10,000/-. In fact, no formal order had been issued by the registering authority fastening the writ petitioner's liability. Only on the strength of an audit objection, such an entry has been made in the encumbrance register. I am of the view that on the strength of an audit objection, such an entry could not have been made. It is further seen that on this account the mortgage deed in the form of MOD title itself has not been registered.

3.Hence, this writ petition stands allowed. The respondents are directed to delete the offending entry and register the Memorandum of Deposit of Title Deed dated 20.03.2018. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The Inspector General of Registration,
Office of the Inspector General of
Registration, 100, Santhome High Road,
Mylapore, Chennai - 600 028.
 - 2.The District Registrar, Pudukkottai District.
 - 3.The Sub Registrar, Viralimalai Sub Registrar Office,
Viralimalai Sub Registration District,
Pudukkottai District.
- +1 CC to MR.J.MARIA ROSELINE, Advocate SR-64925.
+1 CC to SPL GP SR-65092.

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CS: (12/06/2019) 2P 6C