



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.03.2019

CORAM:

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD) No. 6211 of 2019

N. Jegatheesan

... Petitioner

Vs.

1. The District Registrar,
Virudhunagar District,
Virudhunagar.

2. The Sub Registrar,
Kariapatti Sub Registrar Office,
Virudhunagar District,
Virudhunagar.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to cancel the registered document No. 2744/2012, dated 30.03.2012 as per the decree passed by the Hon'ble Sub Judge, Aruppukkottai in E.A.No.133 of 2013, dated 23.10.2018 and to make suitable entries in the encumbrance certificate register maintained by them.

For Petitioner

: Mr. Babu Rajendran

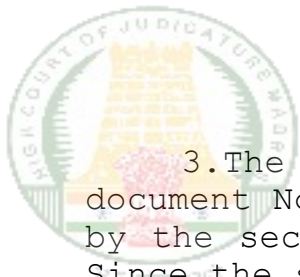
For Respondents

: Mr. M. Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.

2. One Mookandi and his sons executed a sale deed dated 21.04.2008, in favour of the writ petitioner N. Jegatheesan. While so, O.S.No.58 of 2008 came to be filed on the file of the Sub Court, Aruppukkottai seeking the relief of specific performance against the said Mookandi in respect of the property that was sold in favour of N. Jegatheesh. An ex parte decree came to be passed to execute the same. E.P.No.14 of 2011 was also filed by Mr. Sugumaran. In the said E.P., the petitioner herein filed E.A.No.133 of 2013. Certain developments took place in the said execution petition, which need not be elaborated. Suffice it to say that the petitioner herein filed E.A.No.133 of 2013 in the said E.P and the same was allowed after a contest on 23.10.2018. The sale deed executed in favour of Sugumaran was set aside.



3.The petitioner wants the respondents to cancel the registered document No.2744 of 2012, dated 30.03.2012. The same should be done by the second respondent in order to clear the cloud on his title. Since the second respondent has not done so, this writ petition came to be filed.

4.Proviso to Section 23 of the Registration Act, 1908 states that a copy of a decree or order may be presented within four months, from the day on which, the decree or order was made for registration. In this case, the writ petitioner has presented the order well within time. In any event, this Court has held in more than one case that even this time limit is not mandatory. Since the petitioner has statutory right to have the order in question registered, the second respondent is directed to register the petition mentioned order dated 23.10.2018 in E.A.No.133 of 2003 on the file of the Sub Court, Aruppukottai.

5.The writ petition is allowed on these terms. No costs.

Sd/-

Assistant Registrar (T AND P)

// True Copy //

Sub Assistant Registrar

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To

1.The District Registrar,
Virudhunagar District,
Virudhunagar.

2.The Sub Registrar,
Kariapatti Sub Registrar Office,
Virudhunagar District,
Virudhunagar.

+1 CC to M/s.BABU.RAJENDRAN, Advocate (SR-54367[F])dated
15/03/2019)

+1 CC to M/s.SPL GP (SR-54777[F] dated 18/03/2019)