

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No. 11939 of 2020
and
WMP No.14663 of 2020

G.S.Krishnan

...Petitioner

Vs.

The Sub Registrar
Kundrathur
Chennai.

...Respondent

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of .. Directing the respondent to file and to make an entry in Book No. I the order of attachment passed by this Honourable Court in A.No.6003 of 2008 in C.S.No.532 of 2018 dated 17.9.2018 in respect of properties comprised in Survey No.75/2B Plot No.8 measuring an extent of 2890 sq.ft and Plot No.38 Shamuga Nagar measuring an extent of 3400 sq.ft comprised in S.No.75/2B patta No.2358 Patta Survey No.75/10 both situate in No.53 Madanandapuram Village, Sriperumputhur Taluk, Kanchipuram District within the Sub Registration District of Kundrathur, forthwith.

For Petitioner : Ms.Aishwarya
for
Mr.N.Suresh

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

ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus directing the respondent to make an entry in Book No.I, the order of attachment passed by this Court, dated 17.09.2018.

2. The case of the petitioner is that a suit for recovery of money was filed in C.S.No.532 of 2018 before this Court; during the pendency of the suit, an attempt was made to alienate the property; when an application came to be filed in A.No.6003 of 2018 for attachment of the property, this Court ordered attachment on 31.01.2019. It is averred in the affidavit that the order of attachment has also been

communicated to the respondent on 15.02.2019. Since it was not acted upon, a legal notice was also issued. Even, this did not evoke any response and therefore, the present Writ Petition has been filed before this Court seeking for appropriate direction.

3. Heard Ms.Aishwarya, learned counsel appearing on behalf of Mr.N.Suresh, learned counsel for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondent.

4. An order of 'Attachment Before Judgment (ABJ)' will have to be effected by communicating the same to the concerned Sub Registrar Office. Order 38 Rule 11(b) of CPC mandates such a procedure. The Hon'ble Supreme Court has categorically held that if such order of attachment is not registered in the concerned Sub Registrar Office, it will not affect the right of a bonafide purchaser. Useful reference can be made to the judgments in (Sri Humbi Hema Goods and Ors. ..vs.. Tamil Nadu State Transport Corporation (CBE) Ltd., and Ors) reported in 2012 (1) CTC 407 and in (Nataraja Naidu (Died) and Ors.vs.. Soundararajan) reported in 2019 (6) CTC 55.

5. In view of the above, the petitioner has to necessarily get the order of attachment entered in Book No.I maintained in the Sub Registrar Office. Once such an entry is made, the concerned Sub Registrar Office cannot entertain any other document till the attachment is lifted.

6. A specific averment has been made in the affidavit that the order of attachment has been communicated to the respondent on 15.02.2019 itself. Therefore, the respondent ought to have acted upon it and made the necessary entry in Book No.I.

7. In view of the above discussions, there shall be a direction to the respondent to immediately make the necessary entry in Book No.I, the order of attachment passed by this Court in Application No.6003 of 2018 in C.S.No.532 of 2018 dated 17.09.2018. This shall be done forthwith by the respondents.

8. This Writ Petition is disposed of with the above direction. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

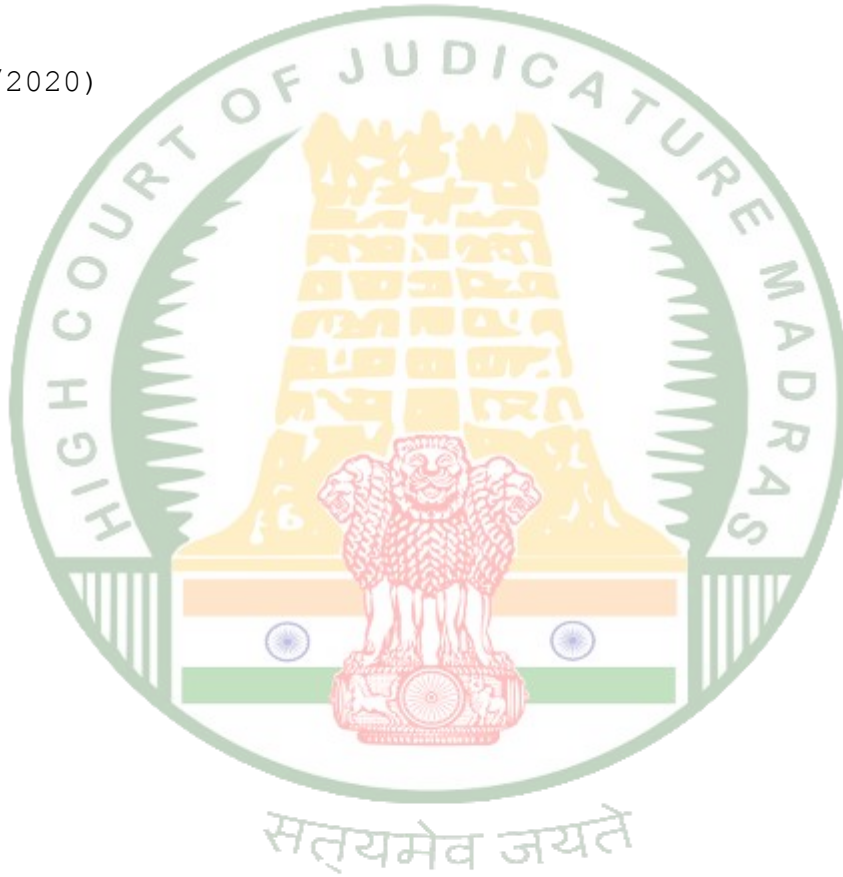
To

1. The Sub Registrar
Kundrathur
Chennai.

+1cc to Government Pleader SR.No.28992

W.P.No. 11939 of 2020
and
WMP No.14663 of 2020

MG (CO)
GMY (08/09/2020)



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