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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.5302 of 2021

S.K.Mohamed Farukh

... Petitioner

Vs

1. The Sub-Registrar,
Chinna Dharapuram,
Aravakurichi Taluk,
Karur District.

2. The Tamil Nadu Mercantile Bank Ltd.,
Represented by its Branch Head,
No.364, Dr.Nanjappa Road,
Opposite to VOC Park,
Coimbatore - 641 018.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Declaration, declaring that the actions of the first respondent in entertaining and registering the obstruction petition given by the second respondent dated 29.06.2020 in respect of the petitioner's property comprised in Survey Nos.1757 and 1765/B of Gudalur Keelbaagam II Village, Aravakuruchi Taluk, Karur District and situated within the Sub-Registration District of Chinna Dharapuram and consequently direct the second respondent to remove the above entry from the encumbrance register in respect of the petitioner's property.

For Petitioner : Mr.A.V.Arun
for Mr.J.Senthil Kumar

For Respondents : Mr.E.Veda Bagath Singh
Special Government Pleader (for R-1)
: Mr.V.Chandrasekaran (for R-2)

ORDER

This writ petition is filed to issue a Writ of Declaration to declare that the actions of the first respondent in entertaining and registering the obstruction petition given by the second respondent dated 29.06.2020 in respect of the petitioner's property comprised in Survey Nos.1757 and 1765/B of Gudalur Keelbaagam II Village, Aravakuruchi Taluk, Karur



District and situated within the Sub-Registration District of Chinna Dharapuram and consequently, direct the second respondent to remove the above entry from the encumbrance register in respect of the petitioner's property.

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2. The case of the petitioner is that the petitioner owned the agricultural lands ad-measuring an extent of 56 cents comprised in S.Nos.1757 and 1765/B situated at Gudalur Keelbaagam II Village, Aravakuruchi Taluk, Karur District. The said property has been offered by way of collateral security for borrowing loan by the petitioner's partnership firm before the second respondent and they were sanctioned with cash credit loans on 15.03.2018. However, without informing and getting the consent from the second respondent, they removed stocks from the partnership firm and as such, the second respondent lodged a complaint and it is pending in Crime No.33 of 2020. That apart, the second respondent lodged a protest petition dated 29.06.2020 before the first respondent alleging that they have filed application before the Debts Recovery Tribunal, Coimbatore for attachment of the subject property before the judgment and requested not to entertain any registration in respect of the said property. On receipt of the same, the first respondent recorded the protest petition in the encumbrance of the subject property.

3. Admittedly, the second respondent filed O.A before the Debts Recovery Tribunal, Coimbatore for attachment before the judgment in respect of the subject property belonged to the petitioner and now it has been numbered as O.A.No.871 of 2021 and I.A.No.2630 of 2021 for attachment before judgment is pending for adjudication on the file of the Debts Recovery Tribunal, Coimbatore. No order has been passed by the said Debts Recovery Tribunal, Coimbatore restraining the first respondent not to register any deed of conveyance in respect of the subject property. However, the first respondent immediately on receipt of the protest petition submitted by the second respondent, made an endorsement in the encumbrance in respect of the subject property. Even till today, the petitioner did not present any document for registration in respect of the subject property and as such, the endorsement made by the first respondent is pre-mature and it is liable to be cancelled.

4. In view of the above discussion, the endorsement made by the first respondent in the encumbrance of the subject property is hereby cancelled. However, if any deed of conveyance presented for registration in respect of the subject property comprised in S.Nos.1757 and 1765/B situated at Gudalur Keelbaagam II Village, Aravakuruchi Taluk, Karur District, on the protest petition submitted by the second respondent, the first respondent is directed to conduct enquiry, after issuance



of notice to the petitioner as well as the second respondent and after giving opportunity of hearing to them and pass orders to register the said document in the manner known to law.

5. In the result, this Writ Petition is allowed. No costs.

Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

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To

1. The Sub-Registrar,
Chinna Dharapuram,
Aravakurichi Taluk,
Karur District.

2. The Branch Head,
Tamil Nadu Mercantile Bank Ltd.,
No.364, Dr.Nanjappa Road,
Opposite to VOC Park,
Coimbatore - 641 018.

+1cc to Mr.J.Senthil Kumar, Advocate SR.No.59888

+1cc to Government Pleader SR.No.60285

W.P.No.5302 of 2021

MG(CO)
GMY(30/11/2021)