



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.8.2021.

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.NO.14762 OF 2021

M/s.Kemin CBR Private Limited,
(Formerly known as
SNJ INN Private Limited)
rep. by its Authorized Signatory,
having its registered office at
Plot No.K3, 11st Cross Street,
SIPCOT Industrial Complex,
Gummidipoondi 601 201.

Petitioner

vs.

1. Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai 600 028.
2. The District Registrar,
Registration Office,
No.1, Moorthi Kallane,
1st Line Beach,
North Madras, Chennai 600 001.
3. The Sub Registrar,
Konnur Sub Registration Office,
Konnur High Road,
South Thirumalai Nagar,
Villivakkam, Chennai 600 049.
4. Kunj Bihari Singhi,
Proprietor of Sanghi Sales Corporation
having office at "Sanghi Sadan",
Congress Nagpur, Nagpur.

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the 3rd respondent to forthwith remove the entry in No.57 of 2014 in the encumbrance certificate in respect of the subject property situated at Plot No.34 (SP) situated at Ambattur Industrial Estate in Mannur Village, Saidapet Taluk, Chengalpet District owned by the petitioner pursuant to the order dated 3.1.2017



passed by Principal District Court, Thiruvallur dismissing the Execution Petition in E.P.No.15 of 2010 filed by the 4th respondent.

WEB COPY

For Petitioner : Mr.M.Navneeth

For RR1 to 3 : Mr.Yogesh Kannadasan,
Government Advocate

ORDER

The writ petition has been filed in the nature of writ of mandamus seeking a direction to the third respondent/Sub Registrar, Konnur Sub Registration Office, at Villivakkam, Chennai to remove the entry in No.57 of 2014 in the encumbrance certificate in respect of the property at Plot No.34 (SP) situated at Ambattur Industrial Estate in Mannur Village, Saidapet Taluk, Chengalpet District, which the petitioner claims to have purchased. The said entry was passed pursuant to the order dated 3.1.2017 by the Principal District Court, Tiruvallur in Execution Petition No.15 of 2010 filed by the respondent dismissing the same.

2. However, the facts are not properly stated by the writ petitioner herein. Originally, Spl.C.S.No.1669 of 1996 had been filed before the Civil Judge, Senior Division, Nagpur and judgment had been obtained on 14.6.2004. The said decree was transferred from the said court to the court of Principal District Judge, Chingleput. Thereafter, an Execution Petition was filed.

3. It is true that the said Execution Petition had been dismissed for default, but, the decree stands. Pursuant to the decree, another order was passed by the Principal District Court, Chingleput regarding attachment of property.

4. It is the contention of the learned counsel for the petitioner that the petitioner was not a party to the suit. It is also contended that the petitioner had purchased the property prior to the filing of the Execution Petition. But, still, the purchase was made *lis pendens viz.*, it has been purchased after institution of the suit and after the decree has been passed. Therefore, the petitioner is bound by the terms of the decree. The Execution Petition might have been dismissed for default, but, that would not preclude the decree-holder from filing a fresh Execution Petition. Mere dismissal of the Execution Petition would not also give rise to any further title or interest over the property. The right of the petitioner is subject to the decree.



5. The petitioner had filed the present writ petition seeking a direction to the third respondent/Sub Registrar to cancel the entry relating to attachment. I am afraid such a mandamus cannot be given and if at all, proper remedy for the petitioner is to approach competent civil court seeking an order vacating the order of attachment and thereafter, approach the Sub Registrar armed with such an order. The Sub Registrar is bound by the order of the Civil Court. Therefore, the writ petition is dismissed, giving liberty to the petitioner to approach the proper civil court. No costs.

-s/d-

Assistant Registrar (CS-IX)

True Copy

Sub-Assistant Registrar

ssk.

To

1. Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
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Villivakkam, Chennai 600 049.

+1cc to Government Pleader, SR.No.40358

W.P.No.14762 of 2021

RR(CO)
PM(06/09/2021)