



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 01.11.2021
CORAM:

THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.P.No.23469 of 2021

M.G.Mohan

...Petitioner

Versus

1. The District Collector,
Kancheepuram District, Kancheepuram.
2. The Sub-Registrar,
Sriperumpudur, Kancheepuram District.
3. The Sub-Registrar,
Sunguvachattram,
Kancheepuram District.

...Respondents

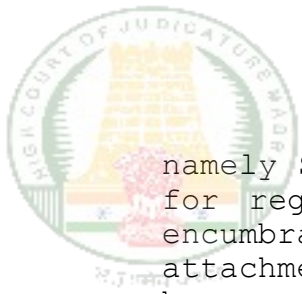
Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the respondents to remove the order of attachment from the encumbrance certificate for the lands bearing Survey Nos.251/1, 252/4, 253/5, 253/7, 254/4, 255/6, 256/2, 256/10, 259/10, 259/9, 261/7, 266/12A, 266/9 at No.39, Selaiyanoor Village, Sriperumpudur Taluk, Kanchipuram District, in Patta No.434 by considering the petitioner's representation dated 30.03.2021.

For Petitioner : Mr. R.Jayaprakash
For Respondents : Mr.Yogesh Kannadasan
Government Advocate

ORDER

This writ petition has been filed for issuance of a Writ of Mandamus, to direct respondent to remove the order of attachment from the encumbrance certificate for the lands bearing Survey Nos.251/1, 252/4, 253/5, 253/7, 254/4, 255/6, 256/2, 256/10, 259/10, 259/9, 261/7, 266/12A, 266/9 at No.39, Selaiyanoor Village, Sriperumpudur Taluk, Kanchipuram District in Patta No.434 by considering the petitioner's representation dated 30.03.2021.

2. The aforesaid property was originally belonged to his father namely Govinda Rao, who obtained the same by virtue of family Partition Deed dated 30.09.1970. Subsequently, the petitioner obtained by way of a registered sale deed dated 24.04.1982 and the same was inherited by him. Thereafter, the petitioner has approached the third respondent/Sub Registrar to settle the above said properties in the name of his brother



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namely Srinivasan and he obtained a token in TP/101594233/2021 for registering the same. When the petitioner applied for encumbrance certificate, he came to know that an order of attachment of the Chennai Royapettah Benefit Fund Ltd., had been registered as Document No.1 of 2004, dated 02.01.2004, as there was an encumbrance in the Survey Nos.259, 261, 266, hence, the 3rd respondent had refused to register the settlement deed. Be that as it may, the petitioner had mortgaged the above said properties in favour of Poonamallee Co-Operative Agricultural and Rural Development Bank by way of two registered Mortgage Deeds in Document Nos.422 and 423 of 2000, dated 31.01.2000 on the file of the office of the 2nd respondent for a sum of Rs.2,23,000/- and Rs.1,26,000/- and the same were cancelled by way of receipt registered as Document Nos.3653 and 3656 of 2012, dated 10.09.2012 on the file of the office of the 3rd respondent. Therefore, the petitioner gave a representation dated 30.03.2021 to the 2nd respondent/Sub Registrar to remove the order of attachment from the encumbrance certificate for the above said properties, whereas, the 2nd respondent gave an evasive reply stating that the attachment order is not available on his records. Therefore, the second respondent should have removed the entry of the Doc.No.1 of 2004 from the encumbrance certificate by considering his representation dated 30.03.2021. Hence, the petitioner has come forward with the present writ petition.

3. The learned counsel appearing for the petitioner submitted that the petitioner will be satisfied if a direction is issued to the respondents to consider the petitioner's representation dated 30.03.2021 and dispose of the same within a stipulated time that may be framed by this Court.

4. Having regard to the limited scope of the prayer that is now sought for in this writ petition before this Court and taking into account the submissions made on either side, without expressing any opinion on the merits of the petitioner's representation or the case pleaded by the petitioner in the present writ petition, the Writ Petition is disposed of, the petitioner is hereby directed to produce all the relevant documents pertaining to the aforesaid property before the respondents and the respondents are hereby directed to scrutinize the said documents submitted by him and thereafter, to consider the petitioner's representation dated 30.03.2021 and pass appropriate orders, on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner within a period of sixteen weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

<https://hcservices.ecourts.gov.in/hcservices/>

Sub Assistant Registrar



gba

To

1. The District Collector,
Kancheepuram District, Kancheepuram.

2. The Sub-Registrar,
Sriperumpudur, Kancheepuram District.

3. The Sub-Registrar,
Sunguvachattram,
Kancheepuram District.

+1 cc to Mr.R.Jayaprakash, Advocate Sr.NO. 56726

+1 cc to Government Pleader Sr.NO. 57660

W.P.No.23469 of 2021

bs (CO)

A.SK(09.12.2021)