

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.02.2021

CORAM

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

W.P.No.33860 of 2017

P.M.Thangavelu,
S/o.Munusamy

... Petitioner

Vs.

The Sub-Registrar,
Ramakrishnarajupettai Sub-Registrar Office,
R.K.Pet, Chennai.

... Respondent

Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondent herein to consider the petitioner's representation dated 23.07.2016 seeking removal of the entry of mortgage deed in document no.14/1994 in the encumbrance certificate issued by the second respondent with respect to land situated at Valakkanam Pudi, Pallipattu Taluk, Tiruvallur District comprised in Survey No.202/6.

For Petitioner : Mr.G.Magesh Kumar

For Respondent : Mr.D.Purushotaman
Government Advocate

ORDER

The writ petition has been filed for issuing a Writ of Mandamus, to direct the respondent herein to consider the petitioner's representation dated 23.07.2016 seeking removal of the entry of mortgage deed in document no.14/1994 in the encumbrance certificate issued by the second respondent with respect to land situated at Valakkanam Pudi, Pallipattu Taluk, Tiruvallur District comprised in Survey No.202/6.

2. Brief facts which are necessary for disposal of the writ petition are as follows:

The petitioner's brother namely P.M.Annamalai borrowed loan from one S.R.Srinivasan, son of Ramasamy in the year 1990 and the petitioner is the surety for the said loan. Since the petitioner's brother did not repay the entire loan amount,

the creditor S.R. Srinivasan filed a Suit in O.S.No.253 of 1993 before the learned Principal District Court, Tiruvallur. Thereafter, the execution proceedings has been initiated before Sub Court, Tiruvallur and the petitioner's property was attached by an order of Courts and the same has been reflected in the Encumbrance Certificate as Doc.No.14 of 1994.

3.It is stated that the execution proceedings was initiated against the petitioner and the salary of petitioner was also attached. It is also contented that the entire amount payable to the decree holder was settled and that the execution petition was terminated after full satisfaction of the decree. Thereafter, the petitioner approached the respondent for removal of the entry of attachment based on the termination of execution proceedings. Since, the respondent has not removed the entry relating to the order of attachment, the petitioner approached this Court.

4.The petitioner's property was attached. When the petitioner has paid the entire decree amount, the order of attachment comes to end by termination of the execution proceedings.

5.In such circumstances, the remedy available to the petitioner is to approach the respondent to register the order terminating execution proceedings. The respondent has got no objection to delete the entries relating to attachment.

6.According to the petitioner the decree holder has collected the entire money under the decree and he can seek proper relief particularly by registering the order in execution petition. If this is a mortgage, the creditor has a duty to execute necessary document vouching discharge or redemption.

7.Accordingly, this writ petition is closed with liberty to get necessary document from creditor for discharges of mortgage and to register the order terminating execution petition. No Costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

tta

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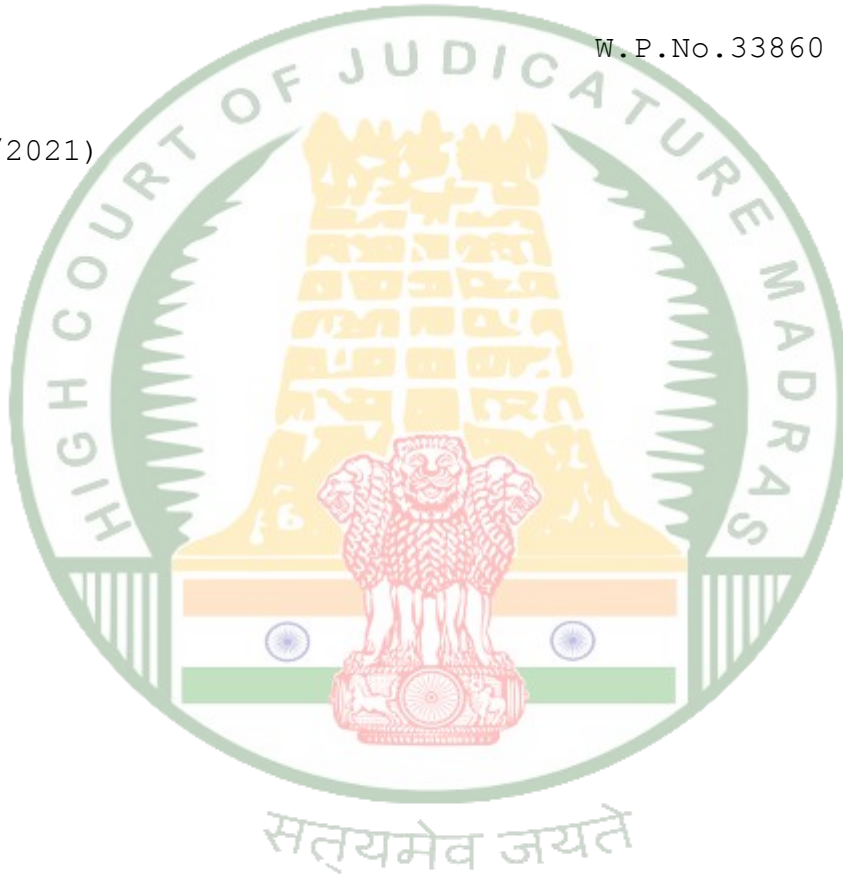
The Sub-Registrar,
Ramakrishnarajupettai Sub-Registrar Office,
R.K.Pet, Chennai.

+1cc to Mr.G.Magesh Kumar, Advocate SR.No.8149

+1cc to Government Pleader SR.No.8266

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SKY (CO)
GMY (08/04/2021)



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