



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.04.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P (MD)No.1778 of 2021

and

W.M.P. (MD) .No.1509 of 2021

WEB COPY

V.Rathinasamy

... Petitioner

Vs.

The Sub Registrar,
Sivakasi Sub Registrar Office,
Near Kamarajar Statue,
Sivakasi- 626 123,
Virudhunagar District.

... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, to call for the records of the impugned order of the respondent in Document No.95 of 2018, dated 25.09.2018 and quash the same as illegal and consequently direct the respondent to appropriately modify the entries and records in the respondent office in accordance with the Decree and Judgment in O.S.No.11 of 2015 passed by the learned District Munsif, Sivakasi, dated 26.04.2018.

For Petitioner : Mr.M.Kannan

For Respondent : Mr.K.Sathiyasingh

Additional Government Pleader

ORDER

This writ petition has been filed challenging the entry made in the Encumbrance Certificate and for a consequential direction to make the correct entry in line with the judgment and decree passed in O.S.No.11 of 2015, dated 26.04.2018.

2. The petitioner purchased the subject property by virtue of the registered sale deed dated 15.03.2010. A suit for partition came to be filed in O.S.No.11 of 2015 on the file of the District Munsif, Sivakasi. A judgment and decree was passed in this suit on 26.04.2018.

3. At paragraph No.6 of the decree, it was declared that the sale that was made in favour of the petitioner is valid only insofar as half share of the plaintiff and the remaining half share was declared to be null and void. This decree was sent for registration before the respondent.

4. The grievance of the petitioner is that when this decree was registered on the file of the respondent as Doc.No.95/2018, the



schedule remarks made in the Encumbrance Certificate reflects as if the entire sale deed executed in favour of the petitioner has been cancelled. According to the petitioner, this remark goes against the decree that was passed by the competent Civil Court.

5. The petitioner, aggrieved by the same, made a representation to the respondent on 27.10.2020 to make the necessary corrections in the Encumbrance Certificate. Since the same was not considered, the present writ petition has been filed before this Court seeking for proper directions.

6. Heard Mr.M.Kannan, learned counsel appearing on behalf of the petitioner and Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for the respondent.

7. In the considered view of this Court, it would have been more appropriate for the respondent to merely register the decree that was passed by the District Munsif Court, Sivakasi, in O.S.No.11 of 2015. By making a remark in the Encumbrance Certificate, it sounds as if the decree has nullified the entire sale deed executed in favour of the petitioner. This remark runs contrary to the decree that was passed by the Civil Court. The Civil Court has declared that the sale deed is valid only insofar as the half share of the plaintiff is concerned and it was declared as null and void with regard to the other half share. Therefore, it cannot be construed as cancellation of the entire sale deed that was executed in favour of the petitioner. Hence, the remarks made in the Encumbrance Certificate requires clarity and it has to reflect the exact terms of the decree, failing which, the petitioner will be aggrieved.

8. In view of the above, there shall be a direction to the respondent to consider the representation made by the petitioner on 27.10.2020 and make the necessary corrections in the Encumbrance Certificate in line with the observations made by this Court hereinabove.

9. This process shall be completed within a period of four(4) weeks from the date of receipt of a copy of this order. The petitioner is directed to make a fresh representation to the respondent along with a copy of this order.

10. This writ petition is disposed of with the above directions. No Costs. Consequently, connected miscellaneous petition is closed.

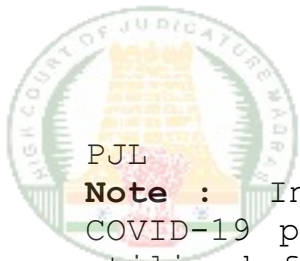
Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



PJL

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To
The Sub Registrar,
Sivakasi Sub Registrar Office,
Near Kamarajar Statue,
Sivakasi- 626 123,
Virudhunagar District.

+1 CC to M/s.SPL GP (SR-15643[F] dated 09/04/2021)

+1 CC to M/s.M.KANNAN, Advocate (SR-15748[F] dated 09/04/2021)

**W.P (MD) No.1778 of 2021
08.04.2021**

—
RK (27.04.2021) 3P 4C