



7BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **16.07.2021**

CORAM:

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THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11968 of 2021

1.Sheik Mohaideen
2.S.Mohammed Khalid

... Petitioners

Vs.

1.The District Registrar,
Registration Department,
Madurai District, Madurai.

2.The Sub Registrar,
Deputy Registrar No.IV,
Madurai South,
Madurai District,
Madurai.

3.G.Annadurai

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondents to remove the entries of encumbrances in Survey Nos. TS Nos.870 and 871 in building Nos.506 and 448 Sq.ft in Inmaiyl Nanmaitaruvar Kovil Street, Madurai, within the time frame stipulated by this Court.

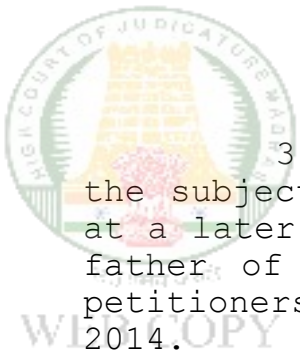
For Petitioners : Mr.T.Lajapathi Roy

For Respondents : Mr.R.Suresh Kumar
Government Advocate,
for R1 and R2

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus directing the second respondent to remove the entries that were made in the relevant records and which gets reflected in the Encumbrance Certificate pertaining to the subject property.

2. Heard Mr.T.Lajapathi Roy, learned counsel appearing for the petitioner and Mr.R.Suresh Kumar, learned Government Advocate appearing for the respondents 1 and 2.



3. The case of the petitioners is that they had purchased the subject property in the year 2014. It came to their knowledge at a later point of time that some encumbrances were created by the father of the third respondent. This came to be known to the petitioners only after a criminal case was filed in Crime No.115 of 2014.

4. Thereafter, when the investigation was pending, the petitioners and the third respondent entered into a compromise and filed a petition before this Court in Crl.O.P.(MD).No.4316 of 2018 to quash the First Information Report in Crime No.115 of 2014, based on the compromise between the parties. The petition was accompanied with the terms of compromise.

5. This Court, by an order, dated 30.10.2019, allowed the petition and quashed the First Information Report in Crime No.115 of 2014, in terms of the Joint Compromise Memo. The terms of the Joint Compromise Memo was also extracted in the said order.

6. The grievance of the petitioner is that even after the above order was passed by this Court and the entire transaction was regularised, the earlier encumbrance that was created by the father of the third respondent continued to be reflected in the relevant records and in the Encumbrance Certificate. Therefore, the petitioner made a representation on 18.05.2021, requesting for deleting the entries. Since the same was not acted upon, the present Writ Petition has been filed before this Court seeking for appropriate directions.

7. In the considered view of this Court, the parties have already entered into a compromise and it has been recognized by this Court while passing orders in Crl.O.P.(MD).No.4316 of 2018 and the terms of compromise was also extracted in the order. Therefore, as rightly contended by the learned counsel appearing for the petitioners, the earlier entries that were made should be cancelled by the second respondent, failing which, the petitioners will not be able to effectively deal with the properties in future.

8. Taking into consideration the facts and circumstances of the case and the submissions made on either side, there shall be a direction to the petitioners to submit the certified copy of the order passed by this Court in Crl.O.P.(MD).NO.4316 of 2018, dated 30.10.2019, to the second respondent. The second respondent, on receipt of the same, shall register this order and in the footnote, the second respondent, shall specifically record that by virtue of registering the order, the entries made at the time of registering the Document, dated 25.02.2010, registered as Document No.2376 of 2010, will stand cancelled. This shall be reflected in the Encumbrance Certificate and in the relevant records maintained by the second respondent. By adopting this process, the earlier



entries will get automatically cancelled and the petitioners will be able to deal with the property without any hindrance.

9. This Writ Petition stands disposed of with the above directions. No costs.

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Sd/-

Assistant Registrar(Writs)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

tsg

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

1.The District Registrar,
Registration Department,
Madurai District,
Madurai.

2.The Sub Registrar,
Deputy Registrar No.IV,
Madurai South,
Madurai District,
Madurai.

+1 CC to M/s.SPL GP (SR-23178[F] dated 19/07/2021)

+1 CC to M/s.T. LAJAPATHI ROY, Advocate (SR-23280[F] dated 20/07/2021)

Order made in
W.P. (MD) .No.11968 of 2021
Dated : 16.07.2021

kg (CO)

TR(27.07.2021) 3P 5C