



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2021

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) .No.14216 of 2021

M.Rajendran

... Petitioner

Vs.

The Sub Registrar,
Registration Department,
Manachanallur,
Trichy District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, to direct the respondent herein to consider the representation, dated 04.07.2019.

For Petitioner : Mr.K.Govindarajan
for Mr.R.Murali

For Respondent : Mr.R.Baskaran
Counsel for State

ORDER

The petitioner seeks the deletion of an entry in the Encumbrance Certificate pertaining to a Court proceeding and an attachment order granted in such proceeding.

2.The petitioner states that he is the owner of the property bearing Survey No.759 in Poonampalayam Village, Manachanallur Taluk, Trichy District. He traces title to such property under a registered sale deed dated 28.02.2011 bearing Document No.1391 of 2011 on the file of the Sub Registrar, Manachanallur. The petitioner states that a Company called Apple Credit Corporation Limited filed a suit in C.S.No.555 of 2001 before the Madras High Court and had obtained an order dated 13.11.2001 for attachment of the properties mentioned in the schedule to such application. Subsequently, it is stated that the suit was dismissed for non prosecution by judgment and decree dated 19.02.2018. Consequently, the petitioner asserts that he is entitled to deletion of the entry in the Encumbrance Certificate relating to such attachment order.

3.Therefore, the petitioner submitted a representation seeking such deletion on 04.07.2019. Such representation was not acted upon. The present Writ Petition is filed in these facts and circumstances.



4.The petitioner has enclosed the sale deed dated 28.02.2011 and the patta issued on 03.10.2019 in support of his claim over the properties in question. The judgment in C.S.No.555 of 2001 is also placed before this Court. Ordinarily, an entry in an Encumbrance Certificate cannot be deleted unless there is a change with respect to the transactions which are reflected in such encumbrance certificate. In the present case, the petitioner has produced a copy of the judgment indicating that the suit was dismissed for non prosecution. Upon such dismissal, the interim order of attachment would also stand *ipso facto* dissolved. However, it has to be conclusively established that such civil suit was not restored subsequently. In addition, it would be necessary to submit a certified copy of the relevant judgment and decree.

5.With the above observations, W.P.(MD).No.14216 of 2021 is disposed of by permitting the petitioner to submit a fresh representation to the Sub Registrar by enclosing a certified copy of the judgment and decree in C.S.No.555 of 2001. Upon receipt thereof, the Sub Registrar is directed to consider the said representation and dispose of the same within a period of two (2) months from the date of receipt thereof after providing a reasonable opportunity to the petitioner and to Apple Credit Corporation Limited. There will be no order as to costs.

Sd/-

Assistant Registrar (CS-II)

// 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

The Sub Registrar,
Registration Department,
Manachanallur, Trichy District.

+1 CC to M/s.R.MURALI, Advocate (SR-26407[F] dated 16/08/2021)
+1 CC to M/s.GP (SR-26369[F] dated 16/08/2021)

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RD(24.08.2021) 2P 4C

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