



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.12.2021

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD) .No.20692 of 2021

and

W.M.P (MD) .No.17304 of 2021

R.Thiyagarajan

... Petitioner

Vs.

1.The Sub Registrar,
Nilakottai,
Dindigul District.

2.K.Nagalakshmi

... Respondents

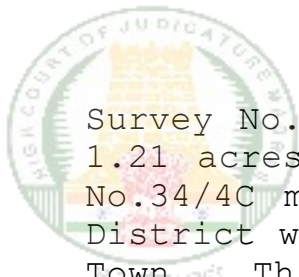
Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, by calling the records relating to the proceedings of the first respondent made in refusal check slip - RFL/Nilakottai/4/2021 dated 28.09.2021, and quash the same and consequently direct the first respondent to register the mortgage receipt.

For Petitioner	: Mr.R.Murali
For R-1	: Mr.S.Shanmugavel, Additional Government Pleader.
For R-2	: M/s.Prabha for Mr.D.Rameshkumar

ORDER

The Writ Petition has been filed in the nature of Certiorarified Mandamus seeking a direction to the first respondent / The Sub Registrar, Nilakottai, Dindigul District relating to a refusal check slip issued by him on 28.09.2021.

2. The facts are quite simple and straightforward. It need not be complicated. The petitioner and the second respondent are brother and sister. I fervently hope that they would keep up their relationship forever in their life. Their father had mortgaged the property in Survey No.34/2 measuring 1.26 acres, in



Survey No.34/1B measuring 1.20 acres, in Survey No.34/3 measuring 1.21 acres, in Survey No.34/5 measuring 1.36 acres and in Survey No.34/4C measuring 8 cents, all situated in Nilakottai, Dindigul District with one A.Mariappan, Son of Andi, resident of Nilakottai Town. This mortgage was on 06.04.2015. The said mortgage was registered in the office of the first respondent / the Sub Registrar, Nilakottai, Dindigul District as Document No.1051/2015.

3. The petitioner and the second respondent should realise that the mortgage would be a mortgage for life over the property and would cause a cloud over the title. It would only deter anybody with any intention to deal with the property. Neither the petitioner nor the second respondent can deal with the property till the mortgage is cleared. It is to their own benefit that the mortgage is cleared. Their father unfortunately died on 12.10.2020. Their mother also died on 03.02.2021. The petitioner and the second respondent are the legal heirs who inherited the property.

4. It is claimed by the petitioner that he had settled the entire mortgage amount. It is also claimed by the second respondent that she had also put in her money towards the discharge of the mortgage amount. Let me not enter into any discussion on that particular aspect. But the mortgage amount had been discharged.

5. The petitioner and the second respondent must also realise that to their own fortune, the mortgagee, A.Mariappan, had come forward with a document to indicate that the mortgage had been discharged and to present that particular document for registration before the first respondent / the Sub Registrar. The second respondent appears to have given a protest. This is to her disadvantage. I hope that the learned counsel for the second respondent would indicate to the second respondent that clearing the mortgage is to the benefit of not only her but her brother also and would also remove the stigma the mortgage created over the property. There is a duty cast on both the petitioner and the second respondent to clear that particular mortgage and I deeply appreciate that they had done so.

6. Therefore, I would brush aside the objections and direct the first respondent to register the discharge certificate presented by A.Mariappan, Son of Andi, resident of Nilakottai Town and thereafter, let the petitioner and the second respondent proceed with some sense and sensibility and not with pride and prejudice in their relationship.



7. With the above observations, this Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Lm

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,
Nilakottai,
Dindigul District.

+1 CC to M/s.R.MURALI, Advocate (SR-39805[F] dated 21/12/2021)
+1 CC to M/s.SPL.GP (SR-39725[F] dated 21/12/2021)

**W.P. (MD) .No.20692 of 2021
20.12.2021**

NSN(CO)
SB(04.01.2022) 3P 4C