



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2021**

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.24603 of 2018

WEB COPY

P.Rajendran

... Petitioner

Vs.

The Sub Registrar,
Madurai South Joint-II
Sub-Registrar Office,
Madurai District.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Mandamus, directing the respondent herein to remove the entry reflecting a Mortgage deed from the list of Encumbrance in respect of T.S.No.465/1, South Veli Street, Madurai District based on the Order of Closure of Final Decree Application made in I.A.No.398/2002 in O.S.No.920/2001 by considering the representation made by the petitioner dated 30.07.2018.

For Petitioner : Mr.V.Sasi Kumar

For Respondent : Mr.R.Suresh Kumar,
Government Advocate

ORDER

This Writ Petition has been filed for the issue of a Writ of Mandamus, directing the respondent herein to delete the entry that is reflected in the encumbrance certificate, based on the order passed in the final decree application in I.A.No.398 of 2002 in O.S.No.920 of 2001, by the learned III Additional Sub-Judge, Madurai.

2. The case of the petitioner is that his father, who was the owner of the subject property in T.S.No.465/1, executed a registered Mortgage Deed dated 16.11.1998, which was registered as Document No.6511 of 1998, in favour of one Rabiya Beevi, while taking loan from her.

3. The said Rabiya Beevi, filed a suit in O.S.No.920 of 2001, before III Additional Sub Court, Madurai for recovery of money, based on the mortgage executed by the father of the petitioner. The suit was decreed by a judgment and decree dated 12.11.2001. The said Rabiya Beevi, filed a final decree application in I.A.No.398 of 2002. During the pendency of this application, both Rabiya Beevi as well as the father of the petitioner died.



4. The further case of the petitioner is that there was a compromise between the petitioner and the legal heirs of the said Rabiya Beevi and the same was reported before III Additional Sub Court, Madurai. Recording the same, the final decree application was closed on 29.09.2015.

WEB COPY

5. The petitioner thereafter, made a representation to the respondent on 30.07.2018, requesting for the deletion of the entry made, at the time of registration of the mortgage, from the encumbrance certificate. Since, the same was not considered, the present Writ Petition has been filed before this Court seeking for appropriate directions.

6. Heard Mr.V.Sasikumar, learned counsel appearing for the petitioner and Mr.R.Sureshkumar, learned Government Advocate appearing for the respondent.

7. In the considered view of this Court, instead of requesting the respondent to delete the entry that was made at the time of registering the Mortgage deed in document No.6511/1998, it will be more appropriate to direct the respondent to register the certified copy of the order passed in I.A.No.398 of 2002, wherein the final decree application itself was closed based on a compromise. If this order is registered, it will automatically reverse the earlier entry that was made at the time of registering the Mortgage Deed.

8. In view of the above, there shall be a direction to the petitioner to submit a certified copy of the order passed in I.A.No.398 of 2002 in O.S.No.920 of 2001, dated 29.09.2015 by III Additional Sub Court, Madurai and the respondent on receipt of the same, shall register the same subject to the necessary stamp duty and registration fees being paid. Once the order is registered, the same shall also be reflected in the encumbrance certificate. This process shall be completed by the respondent within a period of two weeks from the date of receipt of the certified copy of the order from the petitioner.

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

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsm

<https://hcservices.ecourts.gov.in/hcservices/>



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,
Madurai South Joint-II
Sub-Registrar Office,
Madurai District.

+1 CC to M/s.SPL GP (SR-20149[F] dated 24/06/2021)

+1 CC to M/s.S.MURGAPANDI, Advocate (SR-20245[F] dated 25/06/2021)

W.P. (MD) .No.24603 of 2018

23.06.2021

_CN (30.06.2021) 3P 4C