



W.P.No.17075 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

W.P.No.17075 of 2016

G.Adimulam

... Petitioner

Vs

1.The Zonal Manager,
Central Bank of India,
Zonal Office,
No.48/49, Monteith Road,
Egmore, Chennai - 600 008.

2.The Branch Manager,
Central Bank of India,
Alandur Branch,
No.260, Muthukumaraswamy Road,
Alandur, Chennai - 600 016.

3.G.Poongavanam

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, to direct the first and second respondents to rectify encumbrance created over the petitioner's property situated at Survey No.14/10, New T.S.No.11/5, Block No.18, Door No.31-C, Vembuliamman Koil Street, Alandur, Chennai - 600 016, by way of mortgage deed vide Document No.1941/2012, dated 03.07.2012, registered with the Office of the Sub-



W.P.No.17075 of 2016

Registrar, Alandur by way of the procedure established by law and consequently directing the respondents to pay a reasonable compensation to the petitioner.

For Petitioner	: No appearance
For Respondents	:
For R1 & R2	: Mr.P.B.Benjamin George
For R3	: Mr.T.S.Vijaya Raghavan

ORDER

There is no representation on behalf of the petitioner though the learned counsel for the official respondents and the private respondent are present.

2. The petitioner has filed this writ petition for a Mandamus, to direct the first and second respondents to rectify encumbrance created over the petitioner's property situated at Survey No.14/10, New T.S.No.11/5, Block No.18, Door No.31-C, Vembuliamman Koil Street, Alandur, Chennai - 600 016, by way of mortgage deed vide Document No.1941/2012, dated 03.07.2012, registered with the Office of the Sub-Registrar, Alandur by way of the procedure established by law and consequently directing the respondents to pay a reasonable compensation to the petitioner.



W.P.No.17075 of 2016

3. The facts on record indicate that the petitioner and the third respondent are brothers. Apart from them, they have two other brothers namely G.Ramanujam and G.Madhavan. The property in question was purchased in the name of the third respondent in the year 1980 i.e., on 19.05.1980 vide a registered Sale Deed in Doc.No.1090/1980.

4. The petitioner and the third respondent along with two brothers have amicably entered into a family arrangements, whereby, 42 cents of land purchased vide Doc.No.1090/1980 and has been partitioned and is in separate enjoyment of each of the brothers. The respective brothers have also been issued with separate Patta for each of the portion in their possession. Each of the brothers have their own buildings for residential purpose.

5. The petitioner herein had earlier filed a suit for partition in O.S.No.139 of 2011 before the District Munsif Court, Chengalpet against the third respondent and other two brothers namely G.Ramanujam and G.Madhavan. It appears that the suit was contested and it was later dismissed by the trial Court. However, appeals are said to be pending at the behest of the petitioner before this Court by the three brothers on account of certain observations contained in the Judgement and Decree passed by the trial Court in O.S.No.139 of 2011.



W.P.No.17075 of 2016

Meanwhile, the four brothers had also jointly mortgaged the property measuring an extent of 42 cents and had later discharged the loan.

6. In the Memorandum of deposit of title deeds, each of the portion has been separately identified in the schedule of the property. However, when the third respondent had obtained loan from the first and second respondents separately, the bank committed mistake by including the entire extent in the schedule, which has led to problems between the petitioner and the third respondent.

7. In this connection, legal notices have been exchanged between the petitioner and the first and second respondents. The respondents bank in its reply notice dated 29.05.2014 in response to a legal notice dated 06.05.2014 issued on behalf of the petitioner has clarified that the third respondent alone has taken security for the facilities being enjoyed by M/s.Ram Electro Gratings and M/s.Shankar Gratings.

8. During the pendency of the present writ petition, the third respondent



W.P.No.17075 of 2016

has also executed a fresh deed of mortgage, which has been acknowledged by confining it to the extent, which is in possession of the third respondent. That being the case, there is no longer any merits in the present writ petition. Accordingly, this Writ Petition is dismissed. No costs.

12.10.2022

Index: Yes/ No
Speaking/Non-Speaking Order

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To

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C.SARAVANAN, J.

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W.P.No.17075 of 2016

W.P.No.17075 of 2016

12.10.2022