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W.P.Nos.33693 & 33695 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.Nos.33693 & 33695 of 2022

W.P.No.33693 of 2022:

1.M/s.Sri Venkateswara Company
Rep. By its Mandate Holder,
T.R. Palanivel,
Door No.244-B, Peria Kondalampatty Post,
Salem – 10, Salem City.

2.T.R.Manisekaran
3.S.Kavitha
4.R.Pushpa
5.T.R.Palanivel
6.Visalatchi
7.N.Palanivel
8.K.Manokaran
9.M.Gowri Shankar
10.R.Ramkumar
11.P.Kandasamy

... Petitioners

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam
Chennai – 600 028.

2.The District Registrar,
O/o.The District Registrar,
Salem District.



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3.The Sub Registrar,
O/o.The Sub Registrar,
Suramangalam, Salem District.

4.Dr.R.Asaithambi
5.R.Kolandayee Ammal
6.R.Anbalagan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to delete the entries/encumbrance made in Doc.No.31/2019 dated 05.06.2019 on the file of the 3rd respondent in respect of the properties in Plot Nos.19,18, 12, 9 in Survey No.72/1A1A1A, measuring an extent of 4080.0 sq.ft., 3200.0 sq.ft. 11500.0 sq.ft. respectively, situated at Reddiyur Village, Salem and in Survey No.186/16A1B1, measuring an extent of 2957.0 sq.ft. situated at Azhagapuram Pudhur, Salem.

W.P.No.33695 of 2022:

T.R.Manisekaran

... Petitioner

Vs

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam
Chennai – 600 028.

2.The District Registrar,
O/o.The District Registrar,
Namakkal District.

3.The Sub Registrar,
O/o.The Sub Registrar,
Mallasamuthiram, Namakkal District.



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4.Dr.R.Asaithambi

5.R.Kolandayee Ammal

6.R.Anbalagan

... Respondents

Prayer : Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 to 3 to delete the entries/encumbrance made in Doc.No.11/2019 dated 08.05.2019 on the file of the 3rd respondent in respect of the properties in Survey Nos.48/2B, 46/2A2, 41/2A & 41/2B measuring an extent of 5 acre 24, 3 acre 40 cents, 7.41315 cents and 4 acre 5.38 cents respectively situated at Anandagoundampalayam Village, Tiruchengode Taluk, Namakkal District.

In both WPs

For Petitioners : Mr.S.Sithirai Anandam

For Respondents : Mr.Yogesh Kannadasan
Spl. Govt. Pleader for R1 to R3

COMMON ORDER

Since the issue raised in these writ petitions is one and the same, with the consent of the learned counsel appearing for both sides, these writ petitions were heard together and are disposed of by this common order.



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2. In respect of certain properties in two different villages one is

Suramangalam at Salem District and Mallasamuthiram at Namakkal District, it is the claim of the petitioners that the properties belong to them. In respect of these properties between the petitioners and private respondents, there has been a litigation in a Civil Court in O.S.No.9 of 2019 on the file of the III Additional District Judge, Salem.

3. During the pendency of the said suit, there was an interim order of attachment in respect of properties belong to the petitioners, pursuant to the same, the private respondents had approached the concerned registering authorities who are the respective 3rd respondent in these writ petitions to register such encumbrance of attachment order passed by the Civil Court accordingly such encumbrance were created.

4. Subsequently after trial the suit was decided in favour of the petitioners and since the suit was dismissed for default and it was in favour of the petitioners, the judgment and decree passed in the civil suit, it was claimed by the petitioners counsel that, was presented before the registering authority to register the same, however they orally refused it by virtue of the encumbrance created pursuant to the interim order of



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attachment as it is still available in the concerned volume of the Registrar Office, therefore in order to remove such encumbrances, the petitioners had given representation dated 24.11.2022, the same since has not been considered, they have approached this Court by filing the present writ petitions with the aforestated prayer.

5. Heard Mr.S.Sithirai Anandam, learned counsel appearing for the petitioners who having reiterated the aforesaid would seek indulgence of this Court.

6. Heard Mr.Yogesh Kannadasan, learned Special Government Pleader appearing for the respondents 1 to 3 who would submit that, pursuant to the earlier interim order passed by the Civil Court during the pendency of the civil suit, the attachment made by way of an interim order having been considered was registered by the concerned registering authority by way of encumbrances and once the suit is now decided in favour of the petitioners, it is open to the petitioners to present the copy of the judgment and decree which would be registered by the concerned registering authority viz., 3rd respondent respectively in these writ petitions. Once such a registration is made in respect of the final



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judgment and decree of the Civil Court, automatically the earlier encumbrances created by way of interim order would get erased, therefore it is for the petitioners to present these documents, once it is presented that would be accepted.

7. I have considered the said submissions made by the learned counsel appearing for the parties especially the stand taken by the learned Special Government Pleader for the official respondents.

8. In view of the order going to be passed in these writ petitions, notice to the private respondents are hereby dispensed with.

9. Since the private respondents suffered with the judgment and decree in the civil suit referred to above which was instituted by them and the suit was decided in favour of the petitioners herein, there can be no impediment for the registering authorities to register the said judgment and decree if it is presented by the petitioners.

10. (a) Therefore, there shall be a direction to the petitioners to present the judgment and decree made in O.S.No.9 of 2019 on the file of



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the III Additional District Judge, Salem to the registering authority viz.,
Sub Registrar, Suramangalam, Salem District and Sub Registrar,
Mallasamuthiram, Namakkal District within a period of two weeks from
the date of receipt of a copy of this order.

(b) On receipt of such judgment and decree, the same shall be accepted and registered by the concerned Sub Registrars referred to above without insisting upon the value of the property but only based on the value of the suit, such registration shall be made within a period of four weeks thereafter.

(c) It is made clear that, once such registration is made, all encumbrances already made pursuant to the interim order of attachment would get automatically erased.

(d) In this context, the Sub Registrar concerned should verify by giving notice to the private respondents as to whether any appeal has been filed by them against the judgment and decree made by the trial Court and if so, the decision if any made by the appellate Court also to be ascertained and thereafter the needful as indicated above shall be undertaken by the registering authorities.



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WEB COPY 11. With these directions, these Writ Petitions are disposed of. No costs.

15.12.2022

Index : Yes/No

Speaking Order : Yes/No

Sgl

To

1.The Inspector General of Registration,
No.100, Santhome High Road,
Pattinapakkam
Chennai – 600 028.

2.The District Registrar,
O/o.The District Registrar,
Salem District.

3.The Sub Registrar,
O/o.The Sub Registrar,
Suramangalam, Salem District.

4.The District Registrar,
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Namakkal District.

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R.SURESH KUMAR, J.

Sgl

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