



W.P.(MD)No.14590 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.07.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P(MD)No.14590 of 2022

Dr.T.Jefferson Binny

... Petitioner

Vs.

1.The Registrar,
Debts Recovery Tribunal, Madruai.

2.The Tamil Nadu Mercantile Bank Limited,
Edalakudi Branch, represented by its Senior Manager,
Kanyakumari District.

3.The Sub Registrar,
Office of the Registration, Boothapandi,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the third respondent to delete the attachment entry in favour of the second respondent in the Encumbrance Certificate in respect of the property in Old Survey No.1147/1, to an extent of 22 cents, Survey No.1147/2 to an extent of 22 Cents (new R.S.No.265/8) in Azhagiapandiapuram Village, Thovalai Taluk, Boothapandi Sub Registration District, Kanyakumari District on the file of the third respondent.

For Petitioner :Mr.V.Selvakukmar

For R1 :Mr.V.Malaiyendran

For R2 :Mr.T.Thevan

For R3 :Mr.K.S.Selvaganesan



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ORDER

(Order of the Court was made by **S.S.SUNDAR, J.**)

This Writ Petition is filed for issuance of a Writ of Mandamus to direct the third respondent to delete the attachment entry in favour of the second respondent in the Encumbrance Certificate in respect of the property in Old Survey No.1147/1, to an extent of 22 cents and in Survey No.1147/2 to an extent of 22 Cents (new R.S.No.265/8) in Azhagiapandiapuram Village, Thovalai Taluk, Boothapandi Sub Registration District, Kanyakumari District on the file of the third respondent.

2.Heard Mr.V.Selvakumar, learned Counsel for the petitioner, Mr.V.Malaiyendran, learned Counsel, who takes notice for the first respondent, Mr.T.Thevan, learned Counsel, who takes notice for the second respondent and Mr.K.S.Selvaganesan, learned Counsel, who takes for the third respondent. By consent of all parties, the Writ Petition is taken up for final disposal at the admission stage itself.

3.The petitioner availed a educational term loan to the tune of Rs.8,00,000/- for studying medicine on 30.08.2008 and thereafter, availed a further sum of Rs.5,00,000/- on 16.09.2011 from the second



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respondent. It is not in dispute that the petitioner and his father had executed necessary documents to secure the loan.

4.As against the total loan amount of Rs.13,00,000/-, it is the definite case of the petitioner that he had paid a sum of Rs.28,30,000/- for settling the entire amount due to the Bank. However, before discharging the loan, the respondent Bank has filed an application in O.A.No.202 of 2020 for recovery amount and in the interlocutory application in I.A.No.638 of 2020, filed by the respondent Bank for furnishing security to the tune of Rs.7,76,123/-, an order of attachment was passed, as the petitioner has failed to furnish the security.

5.It is the admitted fact that the entire outstanding amount due to the bank was settled in full by availing One Time Settlement scheme and the bank has also executed a discharge certificate in the manner prescribed in law. However, for want of Presiding Officer for the Tribunal concerned, it is reported that the petitioner is unable to deal with the property in view of the encumbrance certificate. In other words, since an order of attachment had already been registered in the records of the third respondent, the petitioner is unable to deal with the property. Hence, the above Writ Petition has been filed.



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6. Though the prayer in the Writ Petition is to direct the third respondent, namely, the Sub Registrar of Boodhapandi to delete the attachment entry in favour of the second respondent in the encumbrance certificate, having regard to the fact that the entire loan was discharged and no amount is due and the bank has also executed the discharge certificate, the order of attachment is liable to be cancelled. As a matter of fact, after the issuance of discharge certificate, the order of attachment has no legal consequences.

7. For the reasons noted above, the order of attachment shall be treated as raised and it is for the third respondent to make necessary entries in the register, so that the encumbrance certificate will not reflect any encumbrance on account of attachment within a period of two weeks from the date of receipt of a copy of this order. With the above directions, this Writ Petition is allowed. No costs.

[S.S.S.R., J.] [S.S.Y., J.]
08.07.2022

Index : Yes / No

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To

- 1.The Registrar,
Debts Recovery Tribunal, Madurai.
- 2.The Sub Registrar,
Office of the Registration, Boothapandi,
Kanyakumari District.



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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

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