



W.P(MD)No.23415 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.10.2022

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)No.23415 of 2022
and W.P(MD).Nos.17494 and 17496 of 2022

R.Ananthakumar

... Petitioner

Vs.

1.The District Registrar (Admin),
Madurai District,
Madurai.

2.The Sub Registrar,
Peraiyur Registration Office,
Peraiyur,
Madurai District.

3.G.Muthuraj

4.M.Revathi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, to direct the second respondent to consider the petitioner's representation dated 07.10.2022 from making any entry in the encumbrance certificate in respect of the properties in SY.No.211/2 measuring an extent of 13,492 Sq.Ft in Chinnapoolampatti Village, Peraiyur Taluk, Madurai District.



WEB COPY



W.P(MD)No.23415 of 2022

For Petitioner : Mr.P.M.Vishnuvarthanan
For Respondents : M/s.S.Jayapriya
Government Advocate for R1 and R2

ORDER

This Writ Petition has been filed seeking a writ of Mandamus, to direct the second respondent to consider the petitioner's representation dated 07.10.2022 from making any entry in the encumbrance certificate in respect of the properties in Sy.No.211/2 measuring an extent of 13,492 Sq.Ft in Chinnapoolampatti Village, Peraiyur Taluk, Madurai District.

2.Ms.S.Jayapriya, learned Government Advocate takes notice for the respondents 1 and 2. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the respondents 3 and 4 jointly borrowed a sum of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) from the petitioner, by depositing their title deed and also executed a promissory note with the assurance that they would return the money in a couple of months. The said loan was borrowed only on the friendship for the business development and expansion of respondents 3 and 4, who



W.P(MD)No.23415 of 2022

deals with hardware shops, in the name and style of M/s.MRTT at Kadachanendal, Madurai.

WEB COPY

4. The respondents 3 and 4 failed to keep their promise and repay the amount to the petitioner, in spite of his repeated requests. Therefore, he issued a legal notice to the respondents 3 and 4 and there was no reply. The respondents 3 and 4, deposited the title deed of their patta property in Sy.No.211/2 measuring an extent of 13.492 Sq.ft and attempted to alienate the same in favour of some third party. Therefore, the petitioner filed a Civil Suit in O.S.No.208 of 2022, before the Principal District Court, Madurai, seeking to recover the loan amount of Rs.55,00,000/- (Rupees Fifty Five Lakhs only) along with I.A.Nos.442 and 471 of 2022, for attachment before the judgment of the schedule mentioned properties in the suit.

5. The respondents 3 and 4 filed written statement in the suit and contented that they did not have any intention to alienate the property. Contradictory to their version in the written statement, the third respondent alienated a portion of property measuring an extent of 5 cents



W.P(MD)No.23415 of 2022

WEB COPY

in favour of Kannan and registered the document No.2351/2022 dated 15.06.2022. This act of the third respondent was intentionally made to defeat the petitioner's right over the suit schedule property in the pending suit in O.S.No.208 of 2022 before the Principal District Judge, Madurai.

6. The petitioner issued a legal notice to the second respondent on 07.09.2022, specifically mentioning about the Attachment Before Judgment application and now, the argument is over and the case is posted for judgment. The respondents 3 and 4, with the collusion of the second respondent, repeatedly attempted to alienate the properties by presenting a document for registration in respect of the suit schedule properties. Hence, the petitioner made a representation dated 07.10.2022 and till date, the representation was not considered by the second respondent. Hence, the present writ petition is filed.

7. The petitioner got a valid defence. He has also got a promissory note in his favour and also civil proceedings are initiated and the suit is posted for judgment. The petitioner has already proceeded by taking action against them in the Civil Court in the manner known to law. Even



W.P(MD)No.23415 of 2022

WEB COPY

then, the petitioner has filed this Writ Petition seeking for a direction restraining the respondents from making any entry in the encumbrance certificate in respect of the properties in Survey No.211/2, which cannot be accepted.

In the above facts, this Writ Petition is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No Costs.

12.10.2022

Index:Yes/No
Internet:Yes/No

tta

To

- 1.The District Registrar (Admin),
Madurai District,
Madurai.
- 2.The Sub Registrar,
Peraiyur Registration Office,
Peraiyur,
Madurai District.



WEB COPY



W.P(MD)No.23415 of 2022

V.BHAVANI SUBBAROYAN,J

tta

Order made in
W.P(MD)No.23415 of 2022

12.10.2022