



WEB COPY



W.P.No.22356 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.22356 of 2023
and
W.M.P.No.21739 of 2023

1. R.Rajendran

2. R.Sumathi

... Petitioners

Vs.

1. The Sub Registrar,
Kundrathur, NSK Avenue,
Manickam Road, Kundrathur,
Chennai-69.

2. Inspector General Of Registration,
100, Santhome High Road,
Mullima Nagar, Raja Annamalai Puram,
Chennai-28.

... Respondents

Prayer :- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the respondents to remove the entry bearing Doc. No.19 of 2023 i.e., Caveat Petition bearing No.91 of 2023 in the file of Principal District Judge, Tiruvallur, filed by the (1) V.Palani, (2) P.Uma Maheswari and (3) P.Sowmya dated 13.05.2023 registered at SRO Kundrathur from the Encumbrance Certificate.



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For Petitioners : Mr.B.Deepak Narayanan

For Respondents :
(for R1 & R2) : Mr.G.Krishna Raja,
Additional Advocate General

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ORDER

The relief sought in the present writ petition is to direct the respondents to remove the entry bearing Doc. No.19 of 2023 i.e., Caveat Petition bearing No.91 of 2023 on the file of Principal District Judge, Tiruvallur, filed by the (1) V.Palani, (2) P.Uma Maheswari and (3) P.Sowmya dated 13.05.2023 registered at SRO Kundrathur from the Encumbrance Certificate.

2. The petitioners state that they are the absolute owners of the property more fully described in the present writ petition. The petitioners are in possession and enjoyment of the subject property and recently they have taken Encumbrance Certificate at SRO Kundrathur for the subject property. The petitioner submitted that there is an unlawful and illegal entry of Caveat Petition bearing no.91 of 2023 on the file of the Principle District Judge Tiruvallur, registered in EC as Document No.19 of 2023 dated 13.05.2023.



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3.The learned counsel for the petitioner mainly contended that the Caveat petition cannot be registered in the Encumbrance Register and it is only an administrative procedure to be followed for the purpose of putting caveater on notice in the event of registering a case before the principle District Court at Tiruvallur. Therefore, the registering authority has exceeded its jurisdiction by registering the Caveat Petition.

4. That apart, under Section 148(A) (5) of Code of Civil Procedure "where a caveat has been lodged under Sub Section (1), such caveat shall not remain in force after the expiry of the 90 days from the date on which it was lodged unless the application referred to in Sub-section (1) has been made before the expiry of the said period". Without reference to the above provision, a Caveat Petition, being an administrative proceedings cannot be registered in the Encumbrance Register and cannot be construed as an order of decree within the meaning of the Code of Civil Procedure.

5. That being the factum, the petitioners are entitled to succeed. Accordingly, the respondents are directed to remove the entry bearing Doc. No.19 of 2023 i.e., Caveat Petition bearing No.91 of 2023, within a period of one (1) week from the date of receipt of a copy of this order.



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6. Accordingly, the writ petition stands **allowed**. No costs.

Consequently, connected miscellaneous petition is closed.

(sha)

01.08.2023

Index : Yes

Speaking Order

Neutral Citation : Yes

To

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2. Inspector General Of Registration,
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S.M.SUBRAMANIAM. J.,

(sha)

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