



WEB COPY



W.P.(MD) No.4816 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.03.2023

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

**W.P.(MD) No.4816 of 2023
and
W.M.P.(MD) No.4492 of 2023**

A.Evangeline Jemi

... Petitioner

-vs-

1.The District Registrar
Nagercoil, Kanyakumari District

2.The Joint Sub Registrar
O/o.The Joint Sub Registrar
Eraniel Sub District
Neyoor Post-629 002
Kanyakumari District

3.The Authorised Officer
Tamil Nadu Mercantile Bank Ltd.,
D.No.25/6D, Vembanavilai
Palliyadi Branch, Palliyadi Post-629 169
Kanyakumari District

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records pertaining to the impugned entry made by the 2nd respondent in the Encumbrance Register on 10.12.2022 in Serial No.3 and under document No.40 of 2022 in respect of the petitioner's property in Survey No.790/4, situated at Thiruvithancode Village,



W.P.(MD) No.4816 of 2023

(now Thickenamcode village), Kalkulam Taluk, Kanyakumari District and quash the same as illegal and consequently direct the 2nd respondent to remove the entry in the Encumbrance Register in respect of the petitioner's property.

For Petitioner : Mr.AR.Jeya Rhuthran

For Respondents : Mr.M.Prakash
Additional Government Pleader for R1 & R2
Mr.N.Dilip Kumar
Standing Counsel for R3

ORDER

[Order of the Court was made by R.SUBRAMANIAN, J.]

Prayer in this writ petition reads as follows:

“For the reasons stated in the accompanying affidavit, it is therefore prayed that this Hon'ble Court may be pleased to issue a Writ, Order or Direction in the nature of WRIT OF CERTIORARIFIED MANDAMUS to call for the records pertaining to the impugned entry made by the 2nd respondent in the Encumbrance Register on 10.12.2022 in Serial No.3 and under document No.40 of 2022 in respect of the petitioner's property in Survey No.790/4, situated at Thiruvithancode Village, (now Thickenamcode village), Kalkulam Taluk, Kanyakumari District and quash the same as illegal and consequently direct the 2nd respondent to remove the entry in the Encumbrance Register in respect of the petitioner's property and pass such further or other



W.P.(MD) No.4816 of 2023

orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render justice.”

2. A bare perusal of the prayer shows that the remedy of the petitioner is elsewhere and not under Article 226 of the Constitution of India. If it is the grievance of the petitioner that his property is sought to be sold in execution of the decree passed by the Civil Court, it is for him to approach the concerned Civil Court. There are enough provisions under Order XXI of the Code of Civil Procedure, 1908, which provide remedy to the petitioner. Hence, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

06.03.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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To:

- 1.The District Registrar,
Nagercoil, Kanyakumari District.
- 2.The Joint Sub Registrar,
O/o.The Joint Sub Registrar,
Eraniel Sub District,
Neyoor Post-629 002,
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