



W.P.(MD)No.9626 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.9626 of 2021 &
W.M.P.(MD)No.7368 of 2021

Tamil Nadu Mercantile Bank Limited,
Kulasekaram Branch, D.No.16/2, Upstairs,
Elgin Mansion, Nagacode Junction,
Kulasekaram - 629 161, Kanyakumari District.

Represented by
The Branch Manager / Authorised Officer,
Mr.A.Vijayakumar

....Petitioner

Vs.

1.The Sub Registrar,
Thiruvattar Sub Registrar Office,
Kanyakumari District.

2.M/s.Annai Super Market,
Rep. by its Proprietor,
Mr.A.Sarabin Edwin,
14-111/14, Rubicon Complex
Market Junction,
Kulasekaram,
Kanyakumari District.

3.Sarabin Edwin
4.F.Mary Secret
5.A.Ambrose
6.Rose Mary
7.Saveriar Adimai
8.Devasahayam
9.Suresh Kumar Thangappan

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking for a writ of mandamus directing the first respondent, the Sub Registrar, Thiruvattar, Kanyakumari District to register the Sale Certificate dated 25.03.2021 issued in respect of the schedule mentioned property by the petitioner Bank in favour of the 9th respondent and for a consequential direction to efface/delete the encumbrance attachment entry Doc.No.6/2017, registered on 10.03.2017 on the file of the 1st respondent, the Sub Registrar, Thiruvattar, Kanyakumari District as against the schedule mentioned property.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.R.Ragavendran,
Government Advocate for R1

ORDER

This writ petition has been filed for the issue of writ of mandamus directing the first respondent to register the Sale Certificate dated 25.03.2021 and to delete the entry made in the Encumbrance Certificate which was registered as Document No.6/2017 on 10.03.2017 by the first respondent.

2. When the matter was taken up for hearing today, the learned counsel for the petitioner Bank submitted that the Sale Certificate has



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been registered by the first respondent during the pendency of this writ petition. The learned counsel therefore submitted that the first limb of the relief sought for by the petitioner has been fulfilled. The learned counsel further submitted that the second limb of the relief pertaining to the deletion of the entry made in the Encumbrance Certificate is yet to be considered.

3. The learned Government Advocate appearing for the official respondent submitted that an Attachment Order was passed in I.A.No.7 of 2016 in I.O.P.No.6 of 2016 by the Sub Court, Padmanabapuram and this Court Attachment Order was registered on the file of the first respondent. The learned Government Advocate submitted that the said entry can be deleted only if an order is passed by the Court and it cannot be *suo motu* done by the first respondent.

4. In the considered view of this Court, the borrower has created a mortgage by depositing the title deeds as early as on 10.01.2015 and it was registered on the file of the first respondent through Document No.76/2015. However, subsequent Attachment Order passed by the



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Court, in proceedings which was instituted only in the year 2016, has been entered in the Encumbrance Certificate. It is now too well settled that the subsequent Attachment Order passed by the Court concerned will not bind the Bank. Useful reference can be made to the order passed by this Court in W.P.(MD)No.17254 of 2020, dated 24.03.2021

5. In view of the above, there shall be a direction to the first respondent to delete the encumbrance entry made while registering Document No.6/2017, dated 10.03.2017. This process shall be completed by the first respondent within a period of four weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of with the above directions. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.11.2023

NCC : Yes/No
Index : Yes/No
Speaking / Non-speaking order

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To
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The Sub Registrar,
Thiruvattar Sub Registrar Office,
Kanyakumari District.



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N.ANAND VENKATESH,J.

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