

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).No.13162 of 2023

Chellam

... Petitioner

Vs

1. The District Registrar,
Muthoorani Muduku Lane, Muthupattinam,
Karaikudi - 630 101,
Sivagangai District.
2. The Sub Registrar,
Thiruppathur, Sivagangai District.
3. Subbaiah
4. Selvaraj

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in Na.Ka. No.1419/A4/2023, dated 17.04.2023 and quash the same and further directing the respondents No.1 and 2 to cancel the forged mortgage deed executed by the third respondent in favour of the fourth respondent, dated 05.08.1996 based on the civil court decree in O.S. No.55 of 2018 on the file of the Additional District Munsif, Thiruppathur.

For Petitioner : Mr.R.Balakrishnan
For R1, R2 : Mr.C.Satheesh
Government Advocate

ORDER

The writ petition has been filed in the nature of Certiorarified Mandamus, seeking interference with the order of the first respondent in Na.Ka.No.1419/A4/2023, dated 17.04.2023 and direct the first and second respondent to cancel the mortgage deed executed by the third respondent in favour of the fourth respondent, dated 05.08.1996.

2.The petitioner had instituted a suit in O.S. No.55 of 2018 before the Additional District Munsif Court, Thiruppathur, Sivagangai District seeking a relief that the mortgage deed executed between the first and second defendants dated 05.08.1996 is null and void. The first and second respondents/District Registrar, Karaikudi and the Sub Registrar, Thiruppathur, both in Sivagangai District had been impleaded as third and fourth defendants in the said suit. After trial, the suit was decreed by Judgment, dated 12.01.2023.

3.In the impugned order, it had been stated that the cancellation of mortgage entry cannot be done, in view of the pendency of suit. Now, the suit has been decreed.

4.The petitioner is given an opportunity to take a decision to register the said decree under Section 23 of the Registration Act, 1908 and on such presentation of decree for registration, the second respondent/Sub Registrar, Thiruppathur, Sivagangai District after registering the same may also make necessary entries and clarify that mortgage deed entry has been interfered with and set aside by the Civil Court in the aforementioned decree. The said process is to be completed within a period of twelve weeks from the date of presentation of decree for registration.

4.With the above directions, this Writ Petition stands disposed of.

No costs.

07.06.2023

NCS : Yes/No
Index : Yes / No
Internet: Yes/ No
PNM

To

1. The District Registrar,
Muthoorani Muduku Lane, Muthupattinam,
Karaikudi - 630 101,
Sivagangai District.
2. The Sub Registrar,
Thiruppathur, Sivagangai District.

C.V.KARTHIKEYAN, J.

PNM

ORDER IN
W.P(MD).No.13162 of 2023

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