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W.P.(MD)NO.15326 OF 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.15326 of 2022

Sankar Kumar

... Petitioner

Vs.

1. The District Registrar,
Virudhunagar Registration District,
Madurai Road,
Virudhunagar.

2. The Sub Registrar,
Aruppukottai,
Virudhunagar District.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents 1 and 2 to remove the name of Late.Ponnuvadaiyammal in the Encumbrance Entry Register and also to remove the mortgage deed dated 14.11.1976 in Doc.No.161/1976 on the file of the 2nd respondent executed by the petitioner's grandmother, namely, Karumayilammal in respect of the property in Natham Survey No.167/195, Old Door No.5-3-15, New Door No.21-6-15 situated at Ward No.12, Aruppukottai Town, Virudhunagar District.



For Petitioner : Mr.V.Sasi Kumar

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For Respondents : Mr.N.Satheeshkumar,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner's grandmother had executed the mortgage deed way back in the year 1976. It was also registered. The case of the petitioner is that the mortgage was discharged but it was not registered. At this point of time, the petitioner cannot call upon the respondents to delete the encumbrance.

3. As rightly pointed out by the learned Additional Government Pleader, as per Rule 143 of Registration Rules, a certificate of encumbrance shall contain a complete list of all acts and encumbrances affecting the property in question.



4. Any mortgage has to be enforced within thirty years.

Now more than 47 years have elapsed. Obviously, the said mortgage document cannot now be enforced. Taking advantage of limitation, the petitioner is calling upon this Court to direct the respondents to remove the encumbrance. The respondents cannot do so.

5. This writ petition stands dismissed with this observation. No costs.

15.02.2023

NCS : Yes / No
Index : Yes / No
Internet : Yes / No
PMU

To:

1. The District Registrar,
Virudhunagar Registration District,
Madurai Road,
Virudhunagar.
2. The Sub Registrar,
Aruppukottai,
Virudhunagar District.



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G.R.SWAMINATHAN,J.

PMU

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