



W.P(MD)No.27554 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.02.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27554 of 2022

and

W.M.P.(MD)No.21653 of 2022

Chinnammal

... Petitioner

Vs.

1.The Inspector General of Registration,
Mandaveli, Chennai.

2.The District Registrar,
Dindigul District,
Dindigul.

3.The Sub-Registrar,
Natham,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the third respondent in refusal check slip in Refusal Number:RFL/Natham/4/2022, dated 16.05.2022, quash the same and direct the third respondent to register the petitioner's mortgage deed in favour of one Chitrakala dated 11.04.2022 within a time frame to be fixed by this Court.



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For Petitioner : Mr.Periyakaruppan
For Respondents : Mr.S.Shanmugavel
Additional Government Pleader

ORDER

Heard the learned counsel on either side.

2. The petitioner wants to mortgage the petition mentioned property in favour of one Chithralatha. When the mortgage deed was presented for registration, the third respondent issued the impugned refusal check slip. On two grounds, the third respondent has decided not to entertain the document. The first ground is that there is an attachment order in respect of the petition mentioned property. The second ground is that the property had already been subjected to mortgage and the same has not been redeemed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to quash the impugned refusal check slip and grant relief as prayed for.

4. The learned Additional Government Pleader appearing for the respondents submitted that the impugned order does not warrant interference.



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5. I carefully considered the rival contentions and went through the materials on record.

6. It is true that an attachment order has been passed in respect of the property. However, the impugned refusal check slip does not set out the details. Be that as it may, I can note that the attachment order has been passed in O.S.Nos.96 & 97 of 2007 on the file of the District Munsif Court, Natham. The learned counsel appearing for the petitioner states that both the suits have subsequently been settled out of the Court. In any event, the petitioner has not been shown as party to the said suit proceedings. My attention is drawn to the order dated 16.07.2021 made in *W.P.(MD)No.8422 of 2021 (Palanivel Vs. The Registrar, District Registrar's Office, Didigul)*. A learned Judge of this Court had held that an order of attachment will not bind the person who is not a party to the suit. The petitioner is not claiming right under the parties to the said suit. Therefore, the said attachment will not bind the petitioner herein.

7. As regards the second ground of refusal, there is no bar for creating a second mortgage if the first mortgage is valid. The second mortgage will be subject to the same. Therefore, the third respondent was not justified in



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refusing to entertain the document in question. The impugned refusal check slip is quashed. The petitioner is permitted to re-present the document in question. The third respondent will receive the same and register it and release it subject to fulfilment of other usual formalities.

8. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.02.2023

Index : Yes / No

Internet : Yes/ No

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To

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Dindigul.

3.The Sub-Registrar,
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G.R.SWAMINATHAN, J.

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