



W.P(MD)No.30529 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.12.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.30529 of 2023

A.Kuppusamy

... Petitioner

Vs.

1.The District Registrar,
Office of the District Registrar,
Periyakulam,
Theni District.

2.The Sub Registrar Office,
Office of the Sub Registrar,
Kambam Taluk,
Theni District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents to restore the petitioner's name in the Encumbrance Certificate pertaining to the S. No.1216/12, Door No.12A, Tax Receipt No.5269 to the extent of 695 ¼ Sq.Ft and Door No.12, Tax Receipt No.5022 to the extent of 695 ¼ Sq.Ft, situated at Muniyandi Kovil Street, Ward-5, Keela Gudalur, Gudalur Town, Uthamapalayam Taluk, Theni District.



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For Petitioner : Mr.H.Mahamed Hussain

For Respondents : Mr.S.RA.Ramachandran,
Addl. Government Pleader.

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ORDER

Heard both sides.

2.The petitioner figured as the first defendant in O.S.No.203 of 2016 on the file of the Sub Court, Uthamapalayam. An order of attachment was passed by the learned trial Judge in I.A.No.641 of 2016 on 09.12.2016. The attachment order has since been entered in the encumbrance register. The petitioner is aggrieved by the said entry. The petitioner states that the suit itself was dismissed for non-prosecution on 27.01.2020. The petitioner would contend that as a result, the attachment got terminated. The registering authority has no right to cancel any entry. It is open to the petitioner herein to apply to the trial Court seeking pendency status in respect of the interlocutory application. When the suit itself was dismissed on 27.01.2020, obviously, the interlocutory application also would have suffered an automatic dismissal for default.



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3.I grant liberty to the petitioner to approach the learned Sub Judge, Uthamapalayam. The Sub Judge, Uthamapalayam shall response to the petitioner's queries / applications. That shall be done immediately and without any delay. Based on the response received from the Sub Court, the petitioner can approach the registering authority. The registering authority is directed to register the copy of the judgment and decree dated 27.01.2020 made in O.S.No.203 of 2016 on the file of the Sub Court, Uthamapalayam. Likewise, the pendency status and the current position of I.A.No.641 of 2016 shall also be registered by the registering authority. In my view, registering these subsequent developments would clearly indicate that the attachment originally made no longer subsists. The petitioner can also get the order made in this writ petition also registered by the second respondent.

4.This writ petition is disposed of accordingly. No costs.

20.12.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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Issue order copy on 22.12.2023.

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G.R.SWAMINATHAN, J.

ias

To:-

- 1.The District Registrar,
Office of the District Registrar,
Periyakulam,
Theni District.
- 2.The Sub Registrar Office,
Office of the Sub Registrar,
Kambam Taluk,
Theni District.

Copy to:-

The Sub Court,
Uthamapalayam.

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