



WEB COPY



W.P.No.10417 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :23.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.10417 of 2023 and
W.M.P.Nos.10367 & 10368 of 2023

P.Jothi

... Petitioner

Vs.

1.The Sub-Registrar,
Attur, salem District.

2.N.Somasundaram

3.Tmt.K.T.Rajam

4.K.T.Srinivasan

5.K.A.Thirupathiraja

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records relating to the entries made in the encumbrance certificate by the first respondent dated 17.03.2023 adverse to the petitioner in respect of document No.1109/2023 dated 22.02.2023 in the column of Document remarks and quash the same.

For Petitioner : Mr.S.Doraisamy

For Respondents : Mr.B.Vijay, AGP for R1

Mr.A.Rajakumar for R3 to R5

ORDER



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This Writ Petition has been filed for the issuance of a Writ of Certiorari, to call for the records relating to the entries made in the encumbrance certificate by the first respondent dated 17.03.2023, adverse to the petitioner in respect of document No.1109/2023 dated 22.02.2023 in the column of Document remarks and quash the same.

2. Heard Mr.S.Doraisamy, learned counsel for the petitioner, Mr.B.Vijay, learned Additional Government Pleader for the first respondent and Mr.A.Rajakumar, learned counsel for R3 to R5.

3. Challenge has been made to the entries made in the Encumbrance Certificate by the Sub-Registrar. The Entry was made to the effect that document No.1109 of 2023 is cancelled as per the orders of the Sub Court in I.A.No.1158 of 2022 in O.S.No.214 of 2014 dated 04.03.2023. The interim order has been passed by the Sub Court on the ground that no counter has been filed by the other side and the properties have been sold during the pendency of the suit and held that such transaction is void under Sections 52 & 53 of Transfer of Property Act and should be



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cancelled as per Section 31 of the Specific Relief Act and also directed the Sub-Registrar to make an entry. Based on that interim order, the entries came to be reflected in the Encumbrance Certificate.

4. On the face of it, though the Court is of the view that the interim order passed may not stand in the judicial scrutiny but as long as the same is not been challenged, this Court sitting in a different jurisdiction, without the challenge is being made to such an order, cannot interfere with such order. In such view of the matter, the petitioner can be impleaded in the pending suit and file an application to set aside the exparte order or file an appropriate appeal challenging the said order as per the provisions of CPC.

5. With the above observations, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petitions are closed.

23.04.2024

Index : Yes /No
Speaking / Non-speaking
Neutral Citation : Yes / No
gsk

N.SATHISH KUMAR, J.

gsk



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To
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