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W.P.No.20471 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.20471 of 2024

R.Chandrasekaran

...

Petitioner

vs

The District Registrar
Arakkonam Registration District
Arakkonam.

2.The Sub Registrar
Kalavai Sub Registrar office
Kalavai, Ranipet District.

...

Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus to direct the SRO, Kalavai, 2nd respondent herein to register the document dated 20.02.2023 being settlement deed executed by the petitioner and presented for registration under Receipt No.TP/143744602/2023 within a fixed time frame.

For Petitioner : Mr.A.V.Arun
For Respondents : Mr.M.Shajahan,
Spl.GP for R1 & R2

ORDER

By consent of both sides, this Writ Petition is disposed of at the stage of admission itself.

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2. The case of the petitioners is that the petitioner purchased the property in the year 2012 vide Doc.No.3521/2012 and he was in possession and enjoyment of the property. Now the petitioner presented the document for settlement in favour of his daughter, the same was refused reason citing that there is an attachment in EP.No.55/2003 in OS.No.68 of 2002 on the file of the District Minsif, Ranipet. Hence, the petitioner filed the present writ petition.

3. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents and perused the materials available on record.

4. The very attachment indicates that the order in EP.55/2003 in OS.No.68 of 2002 was made for a sum of Rs.11,165/-. The suit is of the year 2002 and the order in EP.No.55/2003 was ordered on 11.12.2003. Therefore, even assuming there is an attachment the same is time bound, the attachment will go with the property. It will not take away the rights of the decree holder to recover the amount. Therefore, mere attachment, the document cannot be a refused to be registered.



5. In the judgment of this Court in **Subramani Vs. SRO, Rasipuram** in **WP.No.11056 of 2024 dated 26.04.2024** in paragraphs 26 and 27 it is held as follows :-

“26. It is relevant to note that there are some instances noticed by this Court where the attachment in a money suit relating to the year 1998 for a sum of Rs.20,000/-. When the document was presented in the year 2004, the same has been refused mainly on the ground that attachment has not raised. It is relevant to note that Section 64 of CPC makes it clear that any private alienation after attachment is void as against all claims enforceable under the attachment. The Hon'ble Supreme Court in the case of M. Marathachalam Pillai v. Padmavathi Ammal reported in (1971) 3 SCC 878 has held that the sale is only void against all other claims enforceable under the attachment and it is not void generally. Therefore, this Court is of the view that merely on the basis of some attachment reflected in the encumbrance, it is the duty of the registering authorities to make summary enquiry as to the nature of the claims under the attachment. For example, if the attachment is for a sum of few lakhs of rupees over several crores of



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properties, it cannot be said that owner of the property cannot deal with the property forever. If such interpretation is given, in fact, it will take away the constitutional right of a person to hold the property. If the attachment is for a fewer amount and the value of the property is more, the document can be registered with the entry that the attachment prevail over against all the claims enforceable under the attachment so that subsequent purchaser will be put on notice.

27. Similarly, a Division Bench of this Court in the case of K. Balachandran v A.M MuthyyanMudaliar reported in (1974) 87 LW 812, held as follows:

“It is abundantly clear that neither S. 64 of the Code nor the corresponding provision in the earlier enactments made private alienation void for all purposes. S. 64 specifically says that the transaction is void only as against all claims enforceable under the attachment. As pointed out in the first of the cases quoted above a private alienation when an attachment is in force is, not void against the whole world.””



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6. In the result, this Writ Petition is allowed, with a direction to the second respondent to register the settlement deed document of the petitioner under Receipt No.TP/143744602/2023 within a period of two weeks from the date of receipt of a copy of this order. No costs.

24.07.2024

Speaking order / Non-speaking order

Index : Yes / No

Neutral Citation : Yes / No

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To
The District Registrar
Arakkonam Registration District
Arakkonam.

2.The Sub Registrar
Kalavai Sub Registrar office
Kalavai, Ranipet District.



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N.SATHISH KUMAR, J.

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