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W.P.No.27895 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.11.2024

CORAM:

THE HONOURABLE Ms. JUSTICE P.T.ASHA

W.P.No.27895 of 2024

K.Subbulakshmi

... Petitioner

Vs.

1.The Sub-Registrar,
Pammal Registration Office,
Pammal, Chennai-600 075.

2. The Board of Trustees of the Port of Madras,
Madras Port Trust, Rajaji Salai,
Chennai-600 001.

3. The Chairman,
Madras Port Trust, Rajaji Salai,
Chennai-600 001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records, pertaining to the impugned proceedings of the 1st Respondent bearing no.Na.Ka.No.278/2024, dated 17.08.2024, and quash the same and consequently direct the 1st Respondent to delete the entry made in the Encumbrance Certificate of the property situated in Survey No.104/1 and 104/2 in Plot No.19, Pammal, Chennai-600 075, in respect of mortgage



W.P.No.27895 of 2024

deed dated 04.12.1975 executed by Mr.M.Rishya Shankar in favour of the Board of Trustees, Madras Port Trust in Document No.2677/1975 and the Supplementary Mortgage Deed dated 20.07.1976, bearing Document No.1776/1976, also executed by Mr.M.Rishya Shankar in favour of the Board of Trustees, Madras Port Trust, without insisting the discharge of the mortgage or the production of original title deeds of Mr.M.Rishya Shankar.

For Petitioner : Mr.T.T.Ravichander
for Mr.S.I.Sharukumar

For 1st Respondent : Mr.C.Sathish
Government Advocate

For Respondents 2 & 3 : Mr.Niranjan Rajagopalan

ORDER

This Writ Petition is filed for the following relief:

“To issue a writ of certiorarified mandamus, calling for the records, pertaining to the impugned proceedings of the 1st Respondent bearing no.Na.Ka.No.278/2024, dated 17.08.2024, and quash the same and consequently direct the 1st Respondent to delete the entry made in the Encumbrance Certificate of the



W.P.No.27895 of 2024

property situated in Survey No.104/1 and 104/2 in Plot No.19, Pammal, Chennai-600 075, in respect of mortgage deed dated 04.12.1975 executed by Mr.M.Rishya Shankar in favour of the Board of Trustees, Madras Port Trust in Document No.2677/1975 and the Supplementary Mortgage Deed dated 20.07.1976, bearing Document No.1776/1976, also executed by Mr.M.Rishya Shankar in favour of the Board of Trustees, Madras Port Trust, without insisting the discharge of the mortgage or the production of original title deeds of Mr.M.Rishya Shankar”.

2. The property, measuring an extent of 2700 sq.ft bearing Door Nos.104/1 and 104/2, 1st Street, Ayyappan Nagar, Pammal, Chennai, belonged to one Rishya Shankar. The said Rishya Shankar was an employee of the Madras Port Trust and the property had been mortgaged by him with his employer, Madras Port Trust, for raising a loan. As a security, he has executed a Mortgage Deed dated 04.12.1975, which was registered as Document No.2677/1975 on the file of the 1st respondent



W.P.No.27895 of 2024

WEB COPY

herein. The said Rishya Shankar has sold the said property to one Sharadha under a registered Sale Deed dated 07.05.1986 registered as Document No.1399 of 1986 on the file 1st respondent. Saradha, in turn, sold the property to the petitioner by way of a Sale Deed dated 19.08.2024, registered as Document No.3079 of 2004. The petitioner would submit that as early as in the year 1986, the said Rishya Shankar had repaid the loan and the mortgage in favour of the Madras Port Trust had been discharged. However, the discharge was not entered in the encumbrance certificate and to date, the mortgage has not been shown as discharged. The petitioner, therefore, made a representation on 12.08.2024 to the 1st respondent requesting the removal of the entry made in the encumbrance certificate in respect of the Mortgage Deed dated 04.12.1975 and the Supplementary Mortgage Deed dated 20.07.1976. By impugned order, the 1st respondent would submit that the law provides only to include the details regarding the registered document in Index-II, but there is no power to delete the entry. Aggrieved by the same, the petitioner is before this Court.



W.P.No.27895 of 2024

WEB COPY

3. Today, when the matter is called, learned counsel appearing for the Madras Port Trust produced a copy of the letter signed by the Assistant Manager (HBA), Chennai Port Authority on 30.09.2024, wherein the following statement has been made:

“With reference to the above, it is informed that Mr.Rishya Shankar, LDC, Traffic Department, has closed his housing loan fully. The original documents and other related papers are handed over to the retired employee then an there itself while he is in service”.

4. Therefore, it is clear that the mortgage created by the said Rishya Shankar stood discharged. The continuance of the entry on the encumbrance certificate would act as a clog on the title of the petitioner. Therefore, a direction is issued to the petitioner to produce the letter signed by the Assistant Manager (HBA) on 30.09.2024 to the 1st respondent. In the event of the letter being given by the petitioner, the st respondent shall take the letter on file and make an entry in the encumbrance certificate based on the contents of the letter of the Chennai Port Authority, earlier the Madras Port Trust.



W.P.No.27895 of 2024

WEB COPY

5 With the above directions, the Writ Petition is disposed of. No costs.

05.11.2024

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To

1. The Sub-Registrar,
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Pammal, Chennai-600 075.
2. The Board of Trustees of the Port of Madras,
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WEB COPY



W.P.No.27895 of 2024

P.T.ASHA, J.,

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