



Order dated 09.02.2024 in
W.P.No.31395 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 09.02.2024

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.31395 of 2017

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S.Balasubramaniam

.. Petitioner

Vs.

1. The Sub-Registrar,
Sub-Registrar's Office,
Kangeyam,
Thirupur District.

2. P.Thiyagarajan

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus to direct the first respondent to consider the representation dated 24.10.2017 for cancelling the entry, vide Document L.No.35/2004 on the file of the Sub-Registrar, Kangeyam.

For petitioner : Mr.V.Vijayakumar

For respondents: Mr.R.Neethiperumal, Govt. Advocate for R-1

Mr.M.Guruprasad for R-2

ORDER

The petitioner has filed the present Writ Petition praying for issuance of a Writ of Mandamus to direct the first respondent to consider the representation



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dated 24.10.2017 for cancelling the entry, vide Document L.No.35/2004 on the file of the first respondent/Sub-Registrar, Kangeyam.

2. This is a petition seeking for simple issuance of a Writ of Mandamus. Learned Government Advocate appearing for the first respondent submitted that the ABJ (Attachment Before Judgment) entry was made in the Encumbrance Certificate based on the Order of the Court, which was questioned by the petitioner and the petitioner has not approached the Court concerned after that for raising the ABJ order and it is the respondents, on their own volition or on the representation made by the petitioner, cannot remove the said entry. The way in which the entry was made, in the same way, it has to be removed. Therefore, the petitioner has to approach the Court and not the respondent for removing the said ABJ entry.

3. Heard both sides and perused the materials available on record.

4. Admittedly, the petitioner has filed only writ petition seeking simple mandamus to consider his representation to cancel the entry (i.e. ABJ entry), which is admittedly, the ABJ order passed by the Civil Court before pronouncing the main judgment in the matter. However, the contention of the petitioner is that the suit itself was subsequently dismissed, and therefore, the respondents have to remove the entry regarding ABJ. Since the ABJ order was served through Court to the Registrar of the Department, the same was made entry in



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the Encumbrance Certificate, and unless the Court communicates the same by raising the ABJ order, the first respondent-Sub.Registrar cannot remove the same. Therefore, the petitioner is at liberty to work out his remedy in the manner known to law before the Civil Court concerned.

5. With the above observations, the Writ Petition is disposed of. There shall be no order as to costs.

09.02.2024

CS

To

The Sub-Registrar,
Sub-Registrar's Office,
Kangayam,
Thirupur District.



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