



WEB COPY



W.P.No.31084 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27..06..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.31084 of 2023

and

W.M.P.Nos.1271 of 2024 & 3635 of 2024

A.Nilofer Banu

..... Petitioner

-Versus-

1.The Sub Registrar-Joint-III,
Office of the Sub Registrar,
Salem (West), Salem District.

..... Respondent

Petition filed under Article 226 of the Constitution of India, praying to issue a writ of mandamus, mandamus directing the respondent to consider the representation of the petitioner dated 20.06.2023 and handover the impounded original sale deed dated 15.05.2023 registered as Doc.No.1702/2023 on the file of the respondent.

W.M.P.No.1271 of 2024:

K.T.Nanthakumar

..... Petitioner

-Versus-

1.A.Nilofer Banu

2.The Sub Registrar-Joint-III,
Office of the Sub Registrar,
Salem (West), Salem District.

..... Respondents



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Miscellaneous Petition is filed seeking to implead the petitioner as 2nd respondent in the writ petition in W.P.No.31084 of 2023.

W.M.P.NO.3635 of 2024

A.Nilofer Banu

..... Petitioner

-Versus-

1.The Sub Registrar-Joint-III,
Office of the Sub Registrar,
Salem (West), Salem District.

2.The State Bank of India,
rep. by its General Manager,
Retail Assets Central Processing Centre,
SBI Building, 1st Floor,
Fort Main Road,Salem 636 001

..... Respondents

Miscellaneous Petition is filed seeking to implead the petitioner as party respondent in the writ petition in W.P.No.31084 of 2023.

For Petitioner : *Mr.G.Govarthanan*

For Respondent (s) : *Mr.B.Vijay,*
AGP for R1

For petitioner in the : *Mr.N.Jayabalan*
impleadment petition/ [No Appearance]
proposed 2nd respondent



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ORDER

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2. The grievance of the petitioner is that though the sale deed presented by him was registered on 15.05.2023 by the respondent as Doc.No.1702 of 2023, the same was kept pending as pending document.

3. Pending writ petition, one K.T.Nanthakumar, file a miscellaneous petition in W.M.P.No.1271 of 2024 seeking to him implead him as party respondent in the writ petition on the ground that there is an order of attachment against the vendor of the petitioner for the amount due and payable to him. At the same time, the writ petitioner filed a miscellaneous petition in W.M.P.No.3635 of 2024 seeking to implead – State Bank of India, rep. by its General Manager, Retail Assets Central Processing Centre, SBI Building, 1st Floor, Fort Main Road, Salem 636 001 as the 2nd respondent on the ground that 2nd respondent with whom the subject property has been mortgaged towards housing loan is insisting for production of the original title deed.



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4. The respondent registering authority filed counter affidavit inter alia contending that document has already been registered and since there is a order of attachment passed by the II Additional District Judge, Salem, by order dated 24.01.2023 in I.A.No.2 of 2022 in O.S.No.655 of 2022 in respect of the property which is subject matter in the sale deed and there is an encumbrance made on 08.06.2023 in this regard, document has been kept pending.

5. Heard both sides.

6. Considering the order that is going to be passed in the matter, this court is of the view that the proposed respondents are not at all necessary parties to the writ petition for the simple reason that the document has already been registered. Accordingly, the miscellaneous petitions in W.M.P.Nos.1271 of 2024 & 3635 of 2024 are dismissed.

7. This court is of the view that even assuming that there is an order of attachment, the entire sale cannot be said to be void and the sale shall be void only in respect of the claim enforceable under the attachment. The issue on the subject has already been settled by a Division Bench of this court in the case of **Subramani v. The Sub Registrar** [W.P.No.11056 of 2024 dated 26.04.2024] and **G.Rajasulochana v. The Inspector General of Registration** [W.P.No.29706 of 2024 dated 16.04.2024].

8. Therefore, the respondent is directed to release the sale deed forthwith



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to the petitioner. Since there is already an attachment against the property which is the subject matter of the sale deed in question and the attachment created in respect of the immovable property will always go with the property and the same can be enforced in the event the plaintiff in the suit gets a decree in his favour.

This writ petition is disposed of accordingly with the above directions. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
kmk

27..06..2024

To

1.The Sub Registrar-Joint-III, Office of the Sub Registrar, Salem (West),
Salem District.



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N.SATHISH KUMAR.J.,

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