IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

**THE HONOURABLE Ms. JUSTICE P.T. ASHA**

**W.P.No.35032 of 2024**
**and**
**W.M.P.No.37980 of 2024**

Rudra Creators And Contractors,
Represented By Its Proprietor, K.Sridhar Varma,
H5, Vora Towers, C-89,
Madura Nagar,
Yousufguda Road, Hyderabad -500 038.

... Petitioner

**Vs.**

1.The Sub Registrar, Thiruporur,
29,South Mada Street,
Thiruporur -603 110,
Chengalpet District.

2.A.Chidambaram,

3.G.Mohan ...Respondents

**Prayer:-** Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 1st Respondent to consider the representation dated 26.09.2024 made by the Petitioner and delete the entry relating to the sale Agreement dated 02.12.2005 entered into between the 2nd and 3rd respondents, registered as Document No. 8069 of 2005 from the records and the Encumbrance certificate relating the property purchased by the Petitioner admeasuring an extent of Acre 0.16 Cents Comprised in Survey No. 116/13B of No. 41,Pudupakkam Village, Kelambakkam Firka, chengalpet Taluk, Kanchipuram District, withi a time frame to be fixed by this Honble Court.

For Petitioner : M/s.Sahaana. S
for M/s/ARK Law Associates

For Respondents : M/s.M.Shahjahan, Spl.GP.
for R.1

**<u>O R D E R</u>**

The Writ Petition has been filed for the following reliefs:-

*"directing the 1st Respondent to consider the representation dated 26.09.2024 made by the Petitioner and delete the entry relating to the sale Agreement dated 02.12.2005 entered into between the 2nd and 3rd respondents, registered as Document No. 8069 of 2005 from the records and the Encumbrance certificate relating the property purchased by the Petitioner admeasuring an extent of Acre 0.16 Cents Comprised in Survey No. 116/13B of No. 41,Pudupakkam Village, Kelambakkam Firka, chengalpet Taluk, Kanchipuram District, withi a*

*time frame to be fixed by this Honble Court"*

**Brief facts:-**

**2**. The 3rd respondent was the absolute owner of the property admeasuring 2 acres 97 cents comprised in S.Nos.125/14A, 124/4, 116/13, 13B, 124/1, 116/6 and 124/2 of No.41, Pudupakkam Village, Kelambakkam Firka, Chengalpet Taluk, Kanchipuram District. To sell the aforesaid properties, the 3rd respondent had entered into an agreement of sale dated 02.12.2005 with the 2nd respondent and the same has been registered as Doc.No.8069 of 2005 on the file of the 1st respondent. The 2nd respondent had also paid a sum of Rs.15,00,000/- to the 3rd respondent as advance. Since the sale transaction had failed, the 2nd respondent had filed a suit O.S.No.432 of 2006 on the file of the Fast Track Judge-1, Chengalpet against the 3rd respondent seeking specific performance of the sale agreement dated 02.12.2005 and to execute and register the sale deed in respect of the suit property in favour of the 2nd respondent. During the pendency of the said suit, the petitioner had purchased various extents in the aforesaid survey numbers.

**3**. Thereafter, the 2nd respondent had filed I.A.No.267 of 2008 in

O.S.No.432 of 2006 and impleaded the petitioner as the 3rd defendant in the suit. The said suit was dismissed by a judgement and decree dated 09.10.2015. Challenging the same, the 2nd respondent had preferred A.S.No.178 of 2016 on the file of this Court. By judgement dated 16.06.2023, the said suit was partly allowed. The judgement of the Trial Court insofar as it rejected the plaintiff/2nd respondent's relief of specific performance was confirmed. However, the Appellate Court had granted refund of the advance amount.

**4**. The petitioner would submit that though the relief of specific performance of the sale agreement dated 02.12.2005 has been denied to the 2nd respondent, the encumbrance certificates still carries the entry relating to the agreement of sale dated 02.12.2005 as an encumbrance on the property and therefore, the petitioner had made a representation dated 26.09.2024 requesting the 1st respondent to delete/remove the entry relating to the sale agreement dated 02.12.2005 registered as document number 8069 of 2005 on the file of the 1st respondent. However, the said representation has not been considered to date. Therefore, the petitioner is before this Court.

**5**. Heard the counsels on either side.

**6**. The learned Government Pleader would contend that the 1st respondent cannot sou motu cancel the document, since there is nothing to show that the agreement of sale dated 02.12.2005 has not been acted upon. This argument has to be rejected for the simple reason that the agreement of sale dated 02.12.2005 which is the entry in the encumbrance certificate was the subject matter of the suit O.S.No.432 of 2006 filed by the 2nd respondent. The said suit was dismissed in toto. In appeal, the judgement of the Trial Court, insofar as it rejected the 2nd respondent's relief of specific performance, was also confirmed by this Court. Therefore, the judgement of this Court and the Civil Court would clearly prove that the agreement of sale dated 02.12.2005 is no longer valid.

**7**. In view of the above, the Writ Petition is allowed and the petitioner is directed to produce the judgement passed by this Court in A.S.No.178 of 2006 dated 16.06.2023 before the 1st respondent. On receipt of the same, the 1st respondent shall enter the judgement in the encumbrance certificate and in the remarks column mention that by virtue of the aforesaid judgement, the agreement of sale dated 02.12.2005 stood cancelled. The said exercise shall be completed within a period of 2 weeks from the date of production of the judgement passed in A.S.No178 of 2006 by the petitioner. No costs. Consequently, the connected Miscellaneous Petition is closed.

**21.11.2024**

(shr)
Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

To

1.The Sub Registrar, Thiruporur,
29,South Mada Street,
Thiruporur -603 110,
Chengalpet District.

**P.T. ASHA. J.,**

(shr)

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**(3/3)**