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W.P. No.4183 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.02.2024

Coram:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P. No.4183 of 2024 and

W.M.P. No.4499 of 2024

S.Siddeshkumar

... Petitioner

Vs.

1. Deputy Inspector General of Registration

Integrated Building Complex

Kuamargiri bypass Road

Near Udayapatty Power House

Ammapetm, Salem - 636 014

2. District Registrar

Room No.313, Third Floor

District Collector Office

Salem - 636 001

3. Sub Registrar

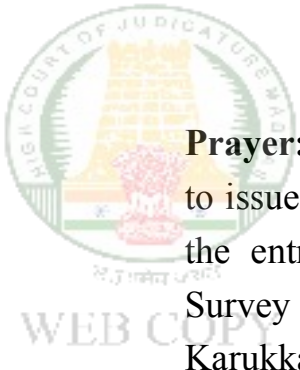
No.17, 19/19

Periya Mariamman Kovil Street

Tharamangalam, Salem - 636 502

4. Ezhumalai

... Respondent



W.P. No.4183 of 2023

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus directing the 2nd and 3rd respondents to delete the entry dated 21.09.2023, registered as document No.6632 of 2023 in Survey No.28/7, Book-I, on the file of Sub-Registrar, Tharamangalam, Karukkalvadi Village, Salem.

For Petitioner : Mr.N.Jayakumar

For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition is filed seeking to issue a Writ of Mandamus directing the 2nd and 3rd respondents to delete the entry dated 21.09.2023, registered as document No.6632 of 2023 in Survey No.28/7, Book-I, on the file of Sub-Registrar, Tharamangalam, Karukkalvadi Village, Salem.

2. The learned counsel for the petitioner submitted that the petitioner is the owner of the property in Survey No.28/7, Karukkalvadi Village, Imalur Taluk, Salem District. The 4th respondent herein, who is no way connected with the petitioner's property, obtained ex-parte decree without mentioning the



property details and also registered the same before the 3rd respondent.

Though in the decree, no survey number is mentioned, the 3rd respondent has registered the decree with a survey number which is in possession of the petitioner. When the original decree does not have any such survey number, the Registrar has no authority to make entries beyond the schedule of property mentioned in the decree. Therefore, the same is liable to be set aside.

3. Mr.Yogesh Kannandasan, learned Special Government Pleader takes notice for the respondents 1 to 3. Since no adverse order is being passed against the 4th respondent, notice to the 4th respondent is dispensed with.

4. It is seen from the records that the 4th respondent herein filed a suit against the petitioner herein in O.S.No.210 of 2012 on the file of the District Munsif-cum-Judicial Magistrate, Omalur and since no one appeared on behalf of the petitioner herein, the 4th respondent obtained ex-parte decree and the same was registered before the 3rd respondent. The contention of the



petitioner is that though in the ex-parte decree, the survey number has not been mentioned, in the Encumbrance Certificate, it reflects the survey number of the petitioner's property. Hence, he has come up with the present Writ Petition seeking direction to the authorities to delete the entries. However, the learned counsel for the petitioner himself stated that the petitioner has filed an interlocutory application to set aside the ex-parte decree and the same is pending before the competent authority. Though there is a wrong entry in the Encumbrance Certificate, the petitioner has already filed an application to set aside the ex-parte decree before the competent Court and the same is now pending.

5. Under the above said circumstances, the petitioner is at liberty to work out his remedy before the Civil Court for setting aside the ex-parte decree and thereafter, he can file a suitable application before the same Court to send the same to the Registration Department to remove the wrong entry



made in the Encumbrance Certificate, as per the procedure as contemplated in the civil rules of practice.

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6. With the above observations, this Writ Petition is disposed of at the admission stage itself. Consequently, connected Miscellaneous Petition is closed. No costs.

20.02.2024

ksa-2

Index : Yes / No

Speaking Order : Yes / No

Neutral Citation Case : Yes/No



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To

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P.VELMURUGAN. J.

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