



W.P.(MD) No.1430 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.(MD) No.1430 2023

P.Subramani

...Petitioner

-VS-

1.The Sub-Registrar,
Sub Registrar Office,
Chatrapatti, Dindigul District,
Pin Code-624 614.

2.S.Muthusamy

3.Shriram Transport Finance Company Ltd.,
Rep by its Authorized Power of Attorney,
M.Janagaran,
Saravana Complex Building,
1st Floor, Tamil Nadu Grama Bank Opposite,
Oddanchatram Main Road,
Kannivadi, Dindigul District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a writ of Mandamus, to direct the 1st respondent to delete the illegal entries shown in Serial No.10 of the encumbrance list in S.No.123/2, 123/3, 123/4, 124/2 and 27/1, 124/5, 124/7 situated at Dindigul District Chatrapatti Sub-Registration, East Chettiyapatti Village invoking section 68 of the Registration Act 1908.



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For Petitioner	: Mr.S.Mohamed Azharudeen Sharof
For R1	: Mr.P.Subbaraj Special Government Pleader
For R2	: No Appearance
For R3	: Mr.M.Mohamed Sherbudeen

ORDER

This writ petition has been filed to direct the first respondent to delete the illegal entries shown in Serial No.10 of the encumbrance list in S.No.123/2, 123/3, 123/4, 124/2 and 27/1, 124/5, 124/7 situated at Dindigul District Chatrapatti Sub-Registration, East Chettiyapatti Village invoking section 68 of the Registration Act 1908.

2.Heard the learned counsel appearing on either side and perused the materials placed on record.

3.The contention of the petitioner is that the petitioner is the owner of the subject properties. He had borrowed a sum of Rs.10 laksh from the third respondent by depositing the title deed of the subject properties. However, due the failure on the part of the petitioner to repay the said loan, the third respondent initiated arbitral proceedings against the



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petitioner even before the tenure of loan is completed and obtained an order of interim attachment over the subject properties. The same had also been reflected in the encumbrance certificate by the first respondent. Seeking to remove the said entry, the petitioner has filed this petition.

4.The learned counsel for the petitioner submitted that the Arbitrator has no power to enforce the order of attachment. In this regard, this Court had already issued guidelines in the case of ***Sundaram Finance Ltd., vs. P.Sakthivel and another [AIR online 2018 Mad 2113]***. However, the first and second respondents without following the guidelines issued by this Court had enforced the order of interim attachment.

5.At the outset, this Court is of the view that the writ petition is misconceived for the simple reason that though this Court taking note of the fact that there is no mechanism for the Arbitration Tribunal to enforce the interim order of attachment, has held that the order of interim attachment can be enforced only through Court of law, it cannot be stated that the entire order passed by the learned Arbitrator is void. The



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guidelines are issued only with regard to the enforcement of the order as if an interim order issued by the Arbitral Tribunal shall be deemed to be an order of the civil Court. Hence, the interim order passed by the Tribunal cannot be interfered with.

6.It is stated by the learned counsel for the petitioner that in the arbitration proceedings an award has also been passed against him and the same has also been put into challenge in O.P.No.118 of 2022 before the Principal District and Sessions Court, Dindigul.

7.In such view of the matter, as long as the award passed in the arbitration proceedings has not been set aside, the interim order of attachment cannot be directed to be removed from the encumbrance certificate. Accordingly, this writ petition is dismissed. No costs.

03.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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WEB COPY To:

The Sub-Registrar,
Sub Registrar Office,
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N.SATHISH KUMAR, J.

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