



C.R.P(MD).No.561 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.02.2024

CORAM :

THE HON'BLE MR JUSTICE G.ILANGOVAN

C.R.P(MD).No.561 of 2024

Shirley Daisey

.. Petitioner

Vs.

A.Mary

... Respondent

PRAYER:- Petition filed under Article 227 of the Constitution of India to set aside the fair and executable order passed in I.A.No. 493 of 2023 in TPOP.No.54 of 2019, dated 12.10.2023 by the Principal District Munsif, Madurai Town.

For Petitioner : Mr.S. Palpandi

ORDER

This Civil Revision Petition is filed against the fair and executable order passed in I.A.No. 493 of 2023 in TPOP.No.54 of 2019, dated 12.10.2023 by the Principal District Munsif, Madurai Town.



C.R.P(MD).No.561 of 2024

2. On the application in TPOP.No.54 of 2019 filed by the revision petitioner under Section 83 of Transfer of Property Act, 1882 the order was passed by the Principal District Munsif, Madurai Town on 24.01.2023 directing this revision petitioner to deposit the balance amount of mortgage. The petitioner calculated the balance amount which came around Rs.54,600/-. The petitioner was directed to pay the said amount within a period of two months. Since because some difficulties faced by the revision petitioner in mobilizing the funds, he could not comply the condition within the time stipulated. After that he filed Interlocutory Application in I.A.No.493 of 2023 seeking condonation of delay of 70 days in depositing the said amount. Notice was ordered to the respondents. Pending the above said proceedings, mortgagee died. There were no Class – I legal heirs to the mortgagee and he could not able to find Class II legal heirs. Because of that the said application was dismissed for default on 12.10.2023.

3. Since no one is available to receive the amount, the remedy available to the petitioner is only to deposit the amount on the file of the trial Court. If the Legal representatives come on record, they can claim the amount. But, the dismissal of the petition may not be



C.R.P(MD).No.561 of 2024

proper. On that account, this Court is inclined to set aside the dismissal order passed by the trial Court and accordingly, set aside.

4. In the result, this Civil Revision Petition is allowed. The petitioner is directed to deposit the said amount to the credit of T.P.O.P.No.54 of 2019 on the file of the Principal District Munsif, Madurai Town. The petitioner may also taken out the publication notifying the deposit from the Legal representatives. If they are available, they can claim the deposited amount by producing the Legal Heirs certificate before the trial Court and that proceeding may taken out separately.

5. The grievance of the petitioner is that because of the issue, the mortgage is the encumbrance is not released. On such deposit, the petitioner is at liberty to take necessary steps to release the encumbrance also. No costs.

29.02.2024

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
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C.R.P(MD).No.561 of 2024

To
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The Principal District Munsif, Madurai Town.



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C.R.P(MD).No.561 of 2024

G.ILANGO VAN,J.

Trp

C.R.P(MD).No.561 of 2023

29.02.2024