



W.P(MD)No.10358 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.10358 of 2023

I.Rajeswari

... Petitioner

Vs.

1.The Sub Registrar,
Tirupuvanam Sub Registration Office,
Tirupuvanam,
Sivagangai District.

2.Banumathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the first respondent to cancel the simple mortgage deed vide its Doc.No.489 of 1991 dated 06.05.1991, before the Sub Registrar Office, Tirupuvanam for the borrowed amount of Rs.25,000/- by the petitioner from the second respondent based on the second respondent's letter dated 18.03.2023 to the first respondent.

For Petitioner	: Ms.J.Malliga
For R1	: Mr.P.Subbaraj
	Special Government Advocate
For R2	: No Appearance



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ORDER

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The petitioner seeks a direction to the first respondent to cancel the simple mortgage deed vide its Doc.No.489 of 1991 dated 06.05.1991, before the Sub Registrar Office, Tirupuvanam for the borrowed amount of Rs.25,000/- by the petitioner from the second respondent based on the second respondent's letter dated 18.03.2023 to the first respondent.

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

3.It is the case of the petitioner that the subject property belongs to the petitioner. By mortgaging the said property, she borrowed some amount from the second respondent. Since she had arranged the amount and ready to settle the same, the petitioner made a request to the second respondent to cancel the said mortgage deed. However, the second respondent had refused to cancel the said document and with an intention to grab the property of the petitioner creating disturbance to the peaceful possession and enjoyment of the said property. Hence, the petitioner made a representation to the authorities concerned to cancel the said registered document. Since the same was not considered, the petitioner has filed this writ petition.



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4.The very Section 77(A) inserted under Registration Act to cancel the registered document, is struck down by the Division Bench of this Court in W.P.No.10291 of 2022 batch. That apart fraudulent transaction cannot be gone into by the authorities, which has to be established in the manner known to law before the civil Court in view of the decisions made in ***Satya Pal Anand v. State of M.P.[2016 10 SCC 767]*** and ***G. Rajasulochana v Inspector General [W.P 29706 of 2024 dated 16.04.2024]***. Accordingly, this Writ Petition is dismissed. No costs.

27.08.2024

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

The Sub Registrar,
Tirupuvanam Sub Registration Office,
Tirupuvanam,
Sivagangai District.



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N.SATHISH KUMAR, J

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