



W.P(MD)No.13611 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.13611 of 2023

and

W.M.P.(MD)No.12534 of 2023

B.Saroja

... Petitioner

Vs.

The Sub Registrar,
Office of the Sub Registrar,
Melur, Madurai District.

... Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to remove the encumbrance found in the petitioner's property in Survey No.220/7 measuring to an extent of 0.76.5 hectares at Soorakundu Village, Melur Taluk, Madurai District by considering the representation of the petitioner dated 26.04.2023 within a time frame as may be fixed by this Court.

For Petitioner	: Mr.P.Jessi Jeeva Priya
For R1 & R2	: Mr.P.Subbaraj Special Government Pleader
For R3	: Mr.R.Shankar Ganesh

ORDER

The petitioner seeks a direction to the respondent to remove the encumbrance found in the petitioner's property in Survey No.220/7 measuring



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to an extent of 0.76.5 hectares at Soorakundu Village, Melur Taluk, Madurai

District by considering the representation of the petitioner dated 26.04.2023.

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 petitioner had purchased the subject property by way of a registered sale deed dated 30.03.1995. Later, the land was subjected to acquisition proceedings in view of the notice dated 08.12.1997. The petitioner challenged the notice before this Court in W.P.No. 4008 of 1998. The said writ petition was allowed and the notice issued for acquiring the subject property had been quashed. When the matter stood thus, the petitioner came to know that in the encumbrance certificate, it has been wrongly recorded as if the petitioner had gifted the property to the Government. In this regard, the petitioner sought information under Right to Information Act and obtained a reply vide communication dated 10.05.2013 stating that no such gift deed has been executed by the petitioner. Hence, he seeks a direction to remove the wrong entries made in the encumbrance certificate.



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4.The learned counsel for the petitioner submits that the encumbrance has been made with regard to the subject property based on the document No.1 of 1998, which relates to the attachment order passed by the civil Court in O.S.No.301 of 1998 on the file of the II Additional Sub Court, Madurai with regard to some other property.

5.A perusal of the certified copy of the attachment order passed by the civil Court clearly shows that the attachment is only in respect of the property in Survey No.237 /10/11, whereas the petitioner had purchased the property in Survey No.220/7. Hence, the attachment order is no way connected to the property in question. Further, vide document No.1/1998, the attachment order of the Civil Court is registered. Whereas, the encumbrance certificate reflects as if it is a gift deed executed by the petitioner. It is also to be noted that the information furnished by the authorities also shows that no such gift deed is executed by the petitioner.

6.In such view of the matter, the entries that has been wrongly reflected in the encumbrance certificate with regard to the subject property, are liable to be removed. Accordingly, this Writ Petition is allowed and the Sub Registrar /respondent is directed to remove the entries made in the



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encumbrance certificate with regard to the property of the petitioner, within a period of one month from the date of receipt of a copy of this order. No costs.

Consequently, connected miscellaneous petition is closed.

27.08.2024

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

The Sub Registrar,
Office of the Sub Registrar,
Melur, Madurai District.



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N.SATHISH KUMAR, J

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