



W.P.(MD)No.28608 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.28608 of 2024

P.Vaiyathurai

...Petitioner

-Vs-

The Joint Sub Registrar No.IV
Madurai Registrar Office,
Palanganatham,
Madurai District.

...Respondent

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent to remove the entry of mortgage deed dated 11.08.1993 from the encumbrance certificate in respect of property by Plots Nos.1,2,3 and 4 totally having a measurement of 3920 Sq.ft of land comprised in S.No.386/2B1, Resurvey No.386/1A/1B situated in Iyan Pappakudi Village of Madurai South Taluk Madurai District by considering the petitioner's representation dated 25.09.2024.

For Petitioner : M/s.K.Chengizkhan

For Respondent : Mr.M.Sarangan
Additional Government Pleader



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ORDER

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This writ petition has been filed for a direction, directing the respondent to remove the entry of mortgage deed dated 11.08.1993 from the encumbrance certificate in respect of the property comprised in Flat Nos.1 to 4 totally measuring in 3920 sq. feet of land comprised in S.No.386/2B1, re-survey No. 386/1A/1B situated in Iyan Pappakudi Village, Madurai South Taluk, Madurai District.

2.The property comprised in Flat Nos.1 to 4 totally measuring in 3920 sq. feet of land comprised in S.No.386/2B1, re-survey No.386/1A/1B situated in Iyan Pappakudi Village, Madurai South Taluk, Madurai District was purchased by the petitioner. Thereafter, the property was mortgaged with one Rangaraj and Thayammal vide mortgage deed dated 11.08.1993. However, the petitioner has filed a suit for redemption of mortgage in O.S.No.323 of 2004 and the same was decreed on the file of the District Munsif Court, Madurai by the judgment and decree, dated 28.10.2005 to the tune of Rs.17,291/-. However, the decree holder did not file any execution petition even after the lapse of 12 years. Therefore, the petitioner has submitted a representation before the registering authority to remove the entry of mortgage deed in the year 1993.



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3. Admittedly, though the decree holder has failed to execute the decree, the mortgage deed cannot be declared as lapsed. For the redemption of the mortgage, there is a limitation for 30 years. That apart, the respondent is being the registering authority, it cannot be removed the entry of mortgage, in view of the decree holder failed to execute the decree within a period of 12 years from the date of decree as against the petitioner. Unless and otherwise the petitioner settled the loan amount and received the receipt, the registering authority cannot delete the entry of the mortgage in the encumbrance certificate in respect of the subject property.

4. Therefore, the prayer sought for in this writ petition cannot be considered and the writ petition is itself devoid of merits and is liable to be dismissed. Accordingly, this writ petition stands dismissed. No costs.

02.12.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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G.K.ILANTHIRAIYAN. J,

RJR

To

The Joint Sub Registrar No.IV
Madurai Registrar Office,
Palanganatham,
Madurai District.

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