



W.P(MD)No.29363 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29363 of 2023

Sandeep Rathee

... Petitioner

Vs.

1.The District Registrar,
O/o. District Registrar,
58/1, Cutchery Road,
Madurai Highway Road,
Virudhunagar District.

2.The Sub Registrar,
O/o.Sub Registrar,
109 Police Station Road,
Sivakasi,
Virudhunagar District.

3.M/s.Shriram Transport Finance Company Limited,
No.110 P Velayutham Road,
Sivakasi, Tamil Nadu – 626 123.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the 2nd respondent to remove the entry made in the encumbrance by virtue of order passed in I.A No.1 of 2021 in Arbitration Case No.258 of 2021 before Sole Arbitrator namely Rt. Hon`ble Judge Mr.K.T.Stalin Selvaraj on the file of Arbitral



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Tribunal at Tirunelveli and restore status quo ante by virtue of the registered Mortgage deed in Document No 5234 of 2016 on the file of 2nd respondent.

For Petitioner : Mr.M.Manikandan

For Respondents : Mr.M.Senthil Ayyanar,
Government Advocate for R1 & R2.
Mr.Ananth C.Rajesh for R3.

ORDER

Heard both sides.

2.One Athiappan, Proprietor of M/s.Mercy Traders availed loan from Indian Bank. He mortgaged the petition mentioned property. This was on 03.08.2016 vide Document No.5234/2016. It appears that the said Athiappan had incurred liability towards the third respondent also. The third respondent initiated arbitration proceeding against him. An arbitral award was passed. The petition mentioned property was attached. The attachment was entered in the encumbrance register. The petitioner now wants the said encumbrance to be removed.

3.I fail to understand as to how this request can be complied with. The only declaration that this Court can give is since the petitioner's mortgage is



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prior in point of time and as a secured creditor and as per the provisions of SARFAESI Act, 2002, the petitioner will have priority as the secured creditor over all others. In this writ petition, only such a declaration can be granted in favour of the petitioner. The petitioner can very well register this order in the encumbrance register and that would definitely address the petitioner's concern.

4.This writ petition is disposed of accordingly. No costs.

26.03.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

1.The District Registrar,
O/o. District Registrar,
58/1, Cutchery Road,
Madurai Highway Road,
Virudhunagar District.

2.The Sub Registrar,
O/o.Sub Registrar,
109 Police Station Road,
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G.R.SWAMINATHAN, J.

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