



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.02.2025

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.3012 of 2025

Mr.V.Rajasekhar

..Petitioner

Vs.

1. The Joint IV Sub Registrar,
Kancheepuram,
22, Vanigar Veethi,
Kancheepuram – 631 501

2. The Inspector General of Registration,
100, Santhome High Road,
Foreshore Estate,
Mylapore, Chennai, Tamil nadu- 600 028

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to delete the entry of outdated attachment order No.7/2017 dated 03.03.2017, in the office of the 1st respondent with reference to the petitioner's property being land measuring an extent of 2640 Sq.ft comprised in T.S.No.903 (part), New TS No.903/3B, situated at door No.15B/55, Narayanapalayam Street, Kancheepuram Town, II Division, Kancheepuram.



For Petitioner : Mr.K.M.Mrithun Jayan
For Respondents : Mr.M.Shahjahan
Special Government Pleader

ORDER

This writ petition has been filed for the issue of Writ of Mandamus directing the 1st respondent to delete the attachment order No.7 of 2017 dated 03.03.2017 with respect to the property purchased by the petitioner under SARFAESI proceedings situated in TS No.903 (part), New T.S.No.903/3B, measuring an extent of 2640 Sq.ft.

2. Heard Mr.K.M.Mrithun Jayan, learned counsel for the petitioner and Mr.M.Shahjahan, learned Special Government Pleader for respondents 1 and 2.

3. The case of the petitioner is that the suit property originally belonged to one Babu. He took loan from a financial institution and executed a mortgage deed by means of Memorandum of deposit of title deeds dated 15.09.2014 registered as document No.5808 of 2014. The said Babu failed to



WEB COPY

repay the loan and hence, his loan was declared as Non -performing Asset (NPA). Proceedings were initiated under the SARFAESI Act and the possession of the property was taken and proceedings were initiated to sell the property. The property was sold in favour of the petitioner through a private treaty since the auction failed and accordingly, a Sale certificate dated 05.07.2022 was issued in favour of the petitioner. This sale was also confirmed and the petitioner was in absolute possession and enjoyment of the property.

4. The grievance of the petitioner is that the said Babu had also obtained a hand loan from one S.Nandakumar in the year 2017. He did not repay this loan amount also and hence, the said Nandakumar filed a money suit in OS No.23 of 2017 before the Principal District Munsif Court, Kancheepuram. Pending the suit, he filed IA No.64 of 2017 and an order of ABJ was passed on 27.02.2017. The said attachment order No.7/2017 dated 03.03.2017 was reflected in the encumbrance certificate. The petitioner wanted this entry made in the encumbrance certificate to be deleted. He made a representation in this regard. Since the same was not considered, the present writ petition has been filed before this Court



WEB COPY

5. In the considered view of this Court, once the mortgage has been created in favour of the financial institution, any subsequent mortgage or attachment of the property will not bind the original lender. The law on this issue is now too well settled. Useful reference can be made to the judgement of the Division Bench in WA No.54 of 2024 dated 06.06.2024. The Division Bench in no uncertain terms has held that such attachment cannot continue and also directed the Sub Registrar to make appropriate entry in the Encumbrance Certificate to nullify the attachment order that is reflected in the encumbrance certificate.

6. In view of the above, there shall be a direction to the 1st respondent to deal with the representation dated 21.10.2024 and the attachment order No.07 of 2017 dated 03.03.2017 shall be reversed / nullified by virtue of registering this order in the encumbrance certificate. The said process shall be completed within a period of two weeks from the date of receipt of a copy of this order.



WEB COPY

7. This writ petition is disposed of with the above directions. No costs.

03.02.2025

Internet : Yes/No

Index : Yes/No

Speaking Order / Non Speaking Order
rka



WEB COPY



N. ANAND VENKATESH, J.

rka

To

1. The Joint IV Sub Registrar,
Kancheepuram,
22, Vanigar Veethi,
Kancheepuram – 631 501
2. The Inspector General of Registration,
100, Santhome High Road,
Foreshore Estate,
Mylapore, Chennai, Tamil nadu- 600 028

WP No.3012 of 2025