



Writ Petition No.15401 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2025

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.15401 of 2025

Sheik Mohideen
S/o.Shajahan

Petitioner

Vs

1. The Sub-Registrar,
Office of The Sub-registrar,
Idappadi, Salem District.

2.R.Viswanathan
S/o.Ramar

3.R. Kathirvel
S/o.Ramar

4.C. Ammasi
S/o.Chinnathambi

5.D. Sakthivel
S/o.Duraisamy

6.S. Kandhasamy
S/o.Shanmugam

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Mandamus directing the 1st



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respondent to delete the entry made in the Encumbrance Certificate relating to the petitioner's land in S.No.296/1 Idappadi Taluk, Salem District, based on the dismiss for default order passed in O.S.No.57 of 2012 dated 22.02.2024 on the file of the Subordinate Court, Sankari.

For Petitioner : Ms.B.Ramya

For Respondents : Mr.K.Karthick Jagannath
Government Advocate [R1]

ORDER

This writ petition has been filed seeking issuance of a writ of mandamus directing the first respondent to delete the entry made in the encumbrance certificate pursuant to the dismissal of the suit for default in O.S.No.57 of 2012 dated 22.02.2024 on the file of Sub Court, Sankari, as document No.3973 of 2024.

2. Heard Ms.B.Ramya, learned counsel for petitioner and Mr.K.Karthick Jagannath, learned Government Advocate appearing for first respondent.

3. The suit was filed by the petitioner and two others in O.S.No.57 of 2012 and respondents 2 to 6 in this writ petition are also defendants in the said suit. The suit was filed for partition and for



allotment of shares. This suit was dismissed for default on 22.02.2024.

Thereafter, an application was filed in I.A.No.3 of 2024 in O.S.No.57 of 2012 for restoration of the suit and the same is pending. In the mean time, the private respondents seem to have presented the decree dismissing the suit for default on 01.08.2024 and it was registered as document No.3973 of 2024. It is under these circumstances, the present writ petition has been filed before this Court for deletion of entry made in the encumbrance certificate.

4. In the considered view of this Court, a suit, which is dismissed for default, does not create any right in favour of any person. The private respondents seem to have presented this decree for registration. The decree was presented for registration after the application was filed in I.A.No.3 of 2024 for restoration. Therefore, the petitioner and two others are now aggrieved by the fact that already steps have been taken to restore the suit, whereas, it is reflected in the encumbrance certificate as if the suit has been dismissed for default.

5. Considering the facts and circumstances of the case and the materials placed before this Court, there shall be a direction to the first



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N.ANAND VENKATESH, J

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respondent to delete the entry made while registering the decree in document No.3973 of 2024 since the restoration petition has already been filed and the same is pending before the Court. The parties can agitate their dispute before the competent civil Court and the final decree passed in the suit can be presented for registration. This process shall be completed by the first respondent within a period of two (2) weeks from the date of receipt of a copy of this order.

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

29.04.2025

Neutral Citation: Yes/No
Index: Yes/no
Speaking Order/Non-Speaking Order
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To
The Sub-Registrar,
Office of The Sub-Registrar,
Idappadi, Salem District.

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