



W.P.No.2727 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated : 31.01.2025

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.2727 of 2025

1.K.M.Joseph
2.Kochu Thresya Joseph
3.K.T.Chacko

... Petitioners

Vs

1.The Government of Union Territory
of Puducherry
Represented by its Chief Secretary
Goubert Avenue
Puducherry.

2.The Sub Registrar
Registration Department
Mahe - 673 310.

3.Lakshmi General Finance Ltd.,
Represented by its Assistant General Manager (Legal)
47, Whites Road, Chennai - 14.06.1999

4.T.A.Latheep Kumar

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of mandamus, directing the second respondent to receive the sale deed executed by the petitioners in favour of M/s.Jolly Wines, Koyyottu Theru, Pallor-Pandakal Road, Mahe, represented by its Managing Partner Vinod Kumar Jayavelu, with respect to 56 sq. mtr. of land and the building bearing Door No.MMC XII/234 and 235 in R.S.No.155/12, Pandakal, Mahe and register it in accordance with the provisions of the Registration Act.

For Petitioners : Ms.Gopika Nambiar

For Respondents : Mr.M.Nirmal Kumar
Government Advocate (P)
for R1 & R2

ORDER

The writ petition has been filed for the following relief :

" to issue a writ of mandamus, directing the second respondent to receive the sale deed executed by the petitioners in favour of M/s.Jolly Wines, Koyyottu Theru, Pallor-Pandakal Road, Mahe, represented by its Managing Partner Vinod Kumar Jayavelu, with respect to 56 sq.mtr. of land and the building bearing Door No.MMC XII/234 and 235 in R.S.No.155/12, Pandakal, Mahe and



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*register it in accordance with the provisions of the
Registration Act"*

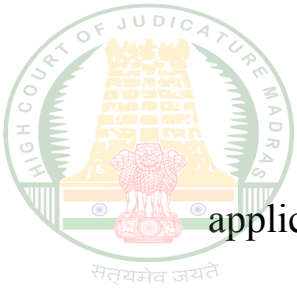
2. It is the case of the petitioners that they have purchased the property measuring an extent of 56 sq. mtrs. along with shop rooms bearing Nos. MMC XII/234 and 235 in R.S.No.155/12 at Pandakkal, Mahe, under a registered sale deed dated 10.11.1996 from one Latheep Kumar, the fourth respondent herein. From the date of purchase, the petitioners have been in ownership, possession and enjoyment of the property. Thereafter, the property was sold to Jolly Wines by the petitioners. When the petitioners approached the second respondent for registration of the sale deed executed by them in favour of Jolly Wines, it was refused by the second respondent stating that the said survey number of the property was in 'court attachment'. Hence, the petitioners had submitted a representation on 12.07.2024 to the second respondent to consider their claim. On the same date i.e., 12.07.2024, the petitioners have applied for encumbrance of the property and they



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obtained an encumbrance certificate on 27.07.2024, certifying that the property was under Court Attachment.

3. The petitioner came to learn that the third respondent is a Non-banking Financial Company who is engaged in the business of hire purchase and lease finance for the vehicles etc. and one Kishore Kumar had approached the third respondent to avail a loan for purchase of a lorry. The third respondent had sanctioned the loan to Kishore Kumar, vide Hire Purchase Agreement, in which, one Latheep Kumar, the fourth respondent herein stood as a guarantor. When the said Kishore Kumar had defaulted in making payment of loan dues to the third respondent, the third respondent initiated arbitration proceedings. Pending the arbitration proceedings, the third respondent filed an application before this Court in A.No.1283 of 2001 seeking an order of Court for attachment of property, against both Kishore Kumar and the fourth respondent as party respondents and that application was allowed. Thereafter, the petitioners herein have taken out an



application in A.No.180 of 2004 to implead themselves in A.No.1283 of 2001 and that was allowed by this Court. Thereafter, there was no communication from their counsel and therefore no further action was taken by the petitioners.

4. Heard the learned counsels on either side.

5. A perusal of the affidavit and the typedset of papers filed in support of this petition would reveal that much prior to the order of attachment, the fourth respondent had sold the property to the petitioners, who in turn had sold the property to Jolly Wines. When the petitioners approached the second respondent to register the said sale executed in favour of Jolly Wines, through online, it was refused stating that the subject property was under Court Attachment. The petitioners have thereafter made a representation to second respondent to delete the entry regarding the attachment, but the same was not considered. Hence, the petitioners are before this Court.



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6. Considering the fact that the property in question had been purchased by the petitioners much prior to the order of attachment, and that the order of attachment was made against the property of the fourth respondent, as he is guarantor for the loan availed by one Kishore Kumar. This attachment has been made when he is no longer the owner for the property. The reason given by the second respondent therefore, for refusing to register the sale deed is without any legal basis.

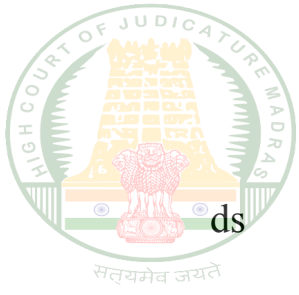
7. Accordingly, the writ petition is allowed and the second respondent is directed to receive and register the sale deed submitted by the petitioners relating to the subject property, within a period of two weeks from the date of its presentation. No costs.

31.01.2025

Index: Yes/No

Speaking order/non-speaking order

Neutral Citation: Yes/No



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P.T.ASHA, J.,

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