



WP No.39816 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 02.01.2025

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

WP No.39816 of 2024

Mrs.Sarala

... Petitioner

Vs.

1. The District Collector,
Chennai District, Collectorate Building,
No.62, Fourth Floor,
Beach Road, George Town,
Chennai 600 001.
2. The Tahsildhar,
Velachery Taluk,
No.113, V.V.Koil Street,
Institute of Road Transport Training Centre Complex,
100 Feet Road, Tharamani,
Chennai – 600 113.
3. The Sub Registrar,
Adyar Sub Registration Office,
No.94, Perumal Koil,
Kotturpuram, Chennai 600 085

... Respondents

Prayer: This Writ Petition is filed under Article 226 of Constitution of India



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for issuance of Writ of Mandamus directing the 3rd respondent to consider the petitioner's representation dated 06.11.2024 and to remove the entry in Encumbrance Certificate pertains to property bearing Door No.23/A, No.43, Kasthuribai Nagar, 5th Main Road, Adayar, Chennai comprised in Survey No.7/2, T.S.No.36, Block No.9 Pallipattu Village, Formerly Mylapore-Triplicane Taluk, presently Velachery Taluk, Chennai District, land measuring an extent of 1680 Sq.ft.

For Petitioner : Mr.C.D.Modhi
For Respondents : Mr.C.Sathish
Government Advocate
for R1 to R3

ORDER

The writ petition is filed seeking a direction to the 3rd respondent to consider the petitioner's representation dated 06.11.2024 and remove the entry in the encumbrance certificate pertaining to the subject property.

2. The petitioner would claim to be the owner of the subject



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property. She was an accused in the criminal case No.829/PW/2015 on the file of the Additional Chief Judicial Magistrate, 47th Court, Esplanade, Mumbai. The property was attached by the Additional Chief Judicial Magistrate through the District Collector, Chennai vide letter dated 11.10.2019. The petitioner had been acquitted from the criminal case by an order dated 11.07.2024.

3. Narrating these facts, the petitioner has made a request to the 2nd respondent to remove the entry in the Encumbrance certificate for which on 06.08.2024, the petitioner had given a representation to the 3rd respondent, which has not been taken into consideration. Thereafter, the petitioner had sent a reminder letter on 06.11.2024, which has also not been acted upon and therefore, the petitioner is before this Court.

4. Heard Mr.C.D.Modhi, learned counsel for petitioner and Mr.C.Sathish, learned Government Advocate, takes notice on behalf of Respondents 1 to 3.



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The records would indicate that the property had been attached by orders in criminal case in No.829/PW/2015 of the Additional Chief Judicial Magistrate, 47th Court, Esplanade, Mumbai by an order dated 11.07.2024. The petitioner, who was the 3rd accused had been acquitted stating that the complaint is purely based on a breach of contract which would not give rise to a criminal prosecution. Therefore, the very basis on which the attachment has been granted comes to a close. Though the petitioner had brought this to the notice of the 3rd respondent, the 3rd respondent has failed to consider the said order and consequently, remove the attachment order. Once, the petitioner has been acquitted from the criminal prosecution, the attachment can no longer be kept pending. Therefore, a mandamus is issued to the 3rd respondent to remove the entry in the encumbrance certificate taking into account the petitioner's representation dated 06.11.2024 and pass orders after giving a personal hearing to the petitioner within a period of twelve weeks from the date of receipt of a copy of this order.



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6. This Writ petition is allowed accordingly. No costs.

02.01.2025

rka

Index : Yes/No

Internet: Yes

Speaking Order/Non-speaking Order

To

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