



W.P.(MD) No.3303 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.02.2025

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD) No.3303 of 2025

M.Rabiath Bazariya

... Petitioner

Vs.

1.The Inspector General of Registration,
Registration Department,
Santhome High Road,
Foreshore Estate, Chennai.

2.The Sub Registrar,
Office of Sub Registration,
Chettikulam, Madurai North,
Madurai.

3.M.Ayisha Al Pathila

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of a Writ of Mandamus directing the first respondent, who in turn issue necessary direction to the second respondent to make an entry with regard to the objection petition dated 18.10.2024 made to the second respondent in the encumbrance register relating to the properties, 3 flats vide No.107, 901 and 708 at PRYME NEO APARTMENT at Parasurampatti Village within the registration limit of the second respondent herein standing in the name of the third respondent herein by



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virtue of gift settlement deed document No.7292/2023 dated 20.11.2023, based on the petitioner's representation dated 24.12.2024 made to the first respondent.

For Petitioner : Mr.A.Ramesh

For R1 & R2 : Mr.R.Suresh Kumar
Additional Government Pleader

ORDER

This Writ Petition seeks for a Writ of Mandamus directing the first respondent, based on the petitioner's representation dated 24.12.2024, to issue directions to the second respondent to make an entry regarding the objection petition dated 18.10.2024 in the encumbrance register relating to the properties, i.e., 3 flats bearing Nos. 107, 901, and 708 at PRYME NEO APARTMENT, Parasurampatti Village, which are standing in the name of the third respondent by virtue of the Gift Settlement Deed, Document No. 7292/2023 dated 20.11.2023.

2. The petitioner married one Mohammed Mathani. Due to disputes and differences of opinion, they separated. Thereafter, the petitioner initiated maintenance proceedings before the Family Court at Madurai in M.C.No.13 of 2022. She also invoked the provisions of the Protection of Women from Domestic Violence Act, 2005, and filed D.V.C.No.30 of



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2022 before the Judicial Magistrate Court (Additional Mahila Court) at

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Madurai. She secured orders of maintenance in both proceedings.

3. Pleading that her husband had received a sum of Rs.15,00,000/- from her and that she has a share in the property set forth in the schedule to the suit in O.S.No.525 of 2022 on the file of the Principal District Court at Madurai, she filed the said suit for the following reliefs:

- (a) To declare the Gift Settlement Deed vide Document No. 1985/2022 dated 27.04.2022 executed in favour of the second defendant (M.Salima Banu) by the first defendant (Mohammed Mathani) as null and void in the eye of law.
- (b) To direct the first defendant to partition the schedule mentioned property by metes and bound and allocate $\frac{1}{2}$ share in the schedule mentioned property to the plaintiff.
- (c) To pass an order of permanent injunction, restraining the second defendant from making further encumbrance over the schedule mentioned property.

4. In the meantime, the petitioner learned that her husband was attempting to settle the very same property in favour of the third



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respondent, who is none other than his daughter born through his first wife, M.Salima Banu. On coming to know these facts, she submitted an objection petition to the first and second respondents to record her objection regarding any document that may be presented, subsequent to the execution of the document, in favour of the third respondent in Document No.7292/2023 dated 20.11.2023. As this exercise of recording the objection has not been carried out, the petitioner has filed this Writ Petition.

5. I have heard Mr.A.Ramesh for the petitioner and Mr.R.Suresh Kumar, Additional Government Pleader, for the first and second respondents.

6. The petitioner, having obtained orders of maintenance from the Family Court at Madurai as well as the Judicial Magistrate Court (Additional Mahila Court) at Madurai, is protected by Section 39 of the Transfer of Property Act, 1882. In terms of Section 39 of the Act, where a third party has a right to receive maintenance from the profits of immovable property and such property is transferred, the petitioner has the right to enforce the order of maintenance that she may secure against

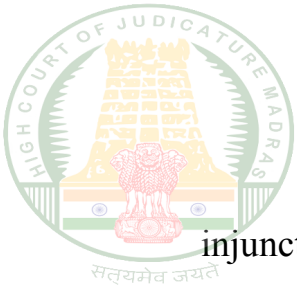


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the third party, who has benefited from the document. In fact, the third respondent herein is not a transferee for consideration without notice of the petitioner's right. The third respondent is the daughter of the petitioner's husband, born through his first wife.

7. Apart from that, the suit having been filed in the year 2022 and the document having been executed in the year 2023, the same is hit by the provisions of Section 52 of the Transfer of Property Act, 1882. In case the petitioner succeeds in her suit in O.S. No. 525 of 2022, whatever rights may have come into the hands of the third respondent would be subject to the decree to be passed in the suit. When the right of the petitioner is statutorily protected under Sections 39 and 52 of the Transfer of Property Act, 1882, the endorsement made in the encumbrance register is not going to improve her case. Even if the third respondent alienates the property in favour of other persons, such persons would also be bound by the decree to be passed in O.S.No.525 of 2022.

8. Leaving it open to the petitioner to agitate her rights in the suit; file an application to implead the third respondent in the suit, and move an appropriate application before the Trial Court seeking any interim order of



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injunction restraining the alienation, this Writ Petition is dismissed. No

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order / Non-Speaking Order

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Copy To:

1.The Inspector General of Registration,
Registration Department,
Santhome High Road,
Foreshore Estate, Chennai.

2.The Sub Registrar,
Office of Sub Registration,
Chettikulam, Madurai North,
Madurai.



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V.LAKSHMINARAYANAN, J.

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