



W.P.(MD).No.4524 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 20.02.2025

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THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

W.P.(MD).No.4524 of 2025

Gul Mohammed

.. Petitioner

Vs.

1.The Branch Manager,
State Bank of India,
Balasamuthiram,
Palani,
Dindigul District.

2.The Sub Registrar,
Palani Joint-I,
Dindigul District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of Mandamus, directing the 2nd respondent to register the discharge receipt and consequentially to direct the 1st respondent back the sale deed dated 15.11.1991 bearing doc.No. 1364/1991 in respect of the properties comprised in S.No.343/1A to an extent of 1.99.00 acres situated at Balasamundram Village, Palani Taluk, Dindigul District.

For Petitioner : Mr.R.G.Shankar Ganesh

For R-1 : M/s.A.Charumathi
for Mr.G.Radhakrishnan

For R-2 : Mr.R.Suresh Kumar

Additional Government Pleader



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ORDER

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The petitioner seeks for a Writ of Mandamus to direct the second respondent to register the discharge receipt to be issued by the Bank with respect to the sale deed dated 15.11.1991 in Document No.1364/1991 covering Survey No.343/1A to an extent of 1.99.0 Acres situated in Balasamundram Village, Palani Taluk, Dindigul District.

2. The petitioner states that he is the owner of the property situated in Survey Nos.537/2B, 537/2C, 537/2D and 343/1A of Balasamundram Village, Palani Taluk, Dindigul District. In exercise of his right of ownership, he had mortgaged the property in favour of the first respondent/State Bank of India. The mortgage deed is a registered one in Document No.2131/2012 dated 30.08.2012. Subsequently, an issue arose that the Executive Officer of Kullamanaicker Chathiram is staking a claim with respect to a property situated in Survey Nos.537/2B, 537/2C and 537/2D of the aforesaid Village. This made the petitioner to approach the Registrar for the purpose of an enquiry, who passed an order reducing the guideline value of the property to the value of “0”.

3. The petitioner approached this Court by way of a Writ Petition in W.P. (MD).No.2139 of 2025. The said Writ Petition was disposed of on 24.01.2025,



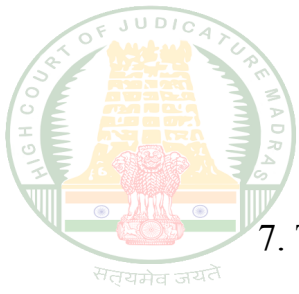
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directing the petitioner to approach the Civil Court and seek for declaration of his title with respect to the properties covered by the objections given by the Executive Officer of Kullama Naicker Madam.

4. In the meantime, the petitioner has settled all the dues that are payable by him to the first respondent/State Bank of India and wanted the discharge of the mortgage to be recorded. The Registrar informed him as there is an objection by the Executive Officer for these three survey numbers, he will not be in a position to register the receipt recording discharge of mortgage. Being left with no other option, the petitioner has approached this Court by way of the present Writ Petition.

5. I heard Mr.R.G.Shankar Ganesh for the petitioner, Ms.A.Charumathi representing Mr.G.Radhakrishnan for the first respondent and Mr.R.Suresh Kumar, learned Additional Government Pleader for the second respondent.

6. Ms.A.Charumathi states, on instructions from the first respondent, that the Bank has returned the title documents to the petitioner as the mortgage has been discharged and that they are willing to execute a receipt to that effect and also present themselves at the time of registration.



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7. The learned Additional Government Pleader, on instructions, states that the Sub Registrar is willing to register the mortgage deed excluding Survey Nos.537/2B, 537/2C and 537/2D.

8. I have carefully considered the submissions of both sides.

9. The fact that a mortgage has been created over the four survey numbers is not in dispute. It is also not in dispute that the mortgage has been discharged and the original documents have been returned to the writ petitioner. The receipt, which has to be registered by the second respondent, is not being registered on account of the fact that the Executive Officer of the religious institution has objected to the right, title and interest of the writ petitioner over the three survey numbers.

10. If I were to accept the submission of Mr.R.Suresh Kumar and permit the registration of the discharge of mortgage only with respect to one survey number, namely, Survey No.343/1A, then, in fact, the mortgage would be split up by virtue of such an action. The Transfer of Property Act does not contemplate splitting up of a mortgage other than in certain circumstances when the mortgagee exercises the power of sale or when he acquires a portion of the



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mortgaged property. (See *Periakaruppa Pillai Vs. Satyanarayanamoorthi*, AIR

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1937 Mad 136). Both these circumstances do not arise in the present case. At the same time, I have to take into consideration that there is another religious entity, which has objected to the registration of any document over the three survey numbers. Hence, while directing the second respondent to record the discharge of mortgage by the first respondent in favour of the writ petitioner, it is made clear that by virtue of recording such discharge of a mortgage, the petitioner will not be entitled to deal with or create any records over the three survey numbers, namely, Survey Nos.537/2B, 537/2C and 537/2D, unless and until, he gets a valid declaration from the Civil Court that he is the owner of the property. All that is being permitted under this order is permitting the petitioner to present and register a discharge of mortgage document for the deed in Document No.2131/2012 dated 30.08.2012.

11. The Writ Petition is ordered in the above terms. There shall be no order as to costs.

20.02.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Lm



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V.LAKSHMINARAYANAN,J.

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