



W.P.(MD)No.5301 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 25.03.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD)No.5301 of 2025

R.Shanmugapriya

... Petitioner

vs.

1.The Sub Registrar,
Office of the Sub Registrar,
Vathirairuppu, Virudhunagar District.

2.Bavani

3.T.Sankara Subramaniam

... Respondents

(R2 was *suo motu* impleaded vide order of this Court, dated 27.02.2025)

(R3 was impleaded vide order of this Court, dated 24.03.2025 in W.M.P.
(MD)No.6037 of 2025)

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the entire records pertaining to the Refusal Check Slip in Refusal Number RFL/Vaithirairuppu/2/2025, dated 11.02.2025 of the respondent and to quash the same and further to direct the respondent to register the MODT dated 11.02.2025 which is presented for registration on 11.02.2025 in respect of petitioner's land in S.No.693/1 to the extent of 43 cents situated at W.Pudupatti Village, Watrap Taluk, Virudhunagar District.



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For Petitioner	:Mr.R.Aravindaraj
For R1	:Mr.R.Suresh Kumar
	Additional Government Pleader
For R2	:Mr.A.Balaji
For R3	:Mr.G.Thalaimutharasu

ORDER

The petitioner challenges the order of the first respondent, in No.RFL/Vaithirairuppu/2/2025, dated 11.02.2025 with a consequential direction to the first respondent to register the memorandum of deposit of title deed, dated 11.02.2025, which was presented for registration on 11.02.2025 in respect of the petitioner's land in S.No.693/1 to an extent of 43 cents situated at W.Pudupatti Village, Watrap Taluk, Virudhunagar District.

2.The case of the petitioner is that the property situated in S.No.693/1, W.Pudupatti Village, Watrap Taluk, Virudhunagar District belonged to one T.Sankara Subramaniam, the third respondent herein. He had mortgaged the property with M/s.City Union Bank. Alleging default, the Bank brought the property for auction by invoking the provisions of the SARFAESI Act. The petitioner had participated in the



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auCTION held on 18.06.2022 and was the successful auction purchaser.

Consequent to the purchase, a sale certificate was issued in her favour and the same was also registered with the first respondent.

3.The third respondent and his father, one K.P.Thirumalai challenged the SARFAESI proceedings before this Court in W.P.(MD)No.20914 of 2022. The said Writ Petition came to be dismissed. Thereafter, the petitioner mutated the revenue records in her favour. She approached M/s.Vistaar Financial Services Private Limited for a loan. The financial institution called upon her to execute a mortgage deed in its favour. Accordingly, the petitioner executed a mortgage deed and took it for registration with the first respondent. The first respondent refused to register the same citing that the property was the subject matter of an attachment by the Deputy Registrar of Cooperative Societies, Srivilliputhur, Virudhunagar District. The petitioner challenged the same by way of a Writ Petition in W.P.(MD)No. 8393 of 2023. This Court allowed the Writ Petition on 29.11.2023.



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4. Thereafter, the petitioner came to know that the second respondent, Ms. Bavani, daughter of K.P. Thirumalai and sister of the third respondent, had instituted a suit for partition and separate possession in O.S.No.70 of 2022 on the file of the Additional District and Sessions Court at Srivilliputhur and that the suit had been decreed. It is the claim of the petitioner that the second respondent has no right over the property, as she had already executed a document of gift in favour of the third respondent in Doc.No.370/2013, dated 13.03.2013. Aggrieved by the preliminary decree passed by the learned Additional District and Sessions Judge at Srivilliputhur, the petitioner had preferred an appeal before this Court in A.S.(MD)SRNo.96084 of 2024. Since she is a third party to the proceeding, she has sought for the leave to prefer an appeal, and the same has been numbered as C.M.P.(MD)No.18964 of 2024.

5. As the proposal with M/s. Vistaar Financial Services Private Limited fell through, the petitioner approached M/s. Indian Overseas Bank, W. Pudurpatti branch, to raise a loan through a mortgage. She presented a memorandum of deposit of title deed for registration, but the first respondent had refused to register the same on the ground that the



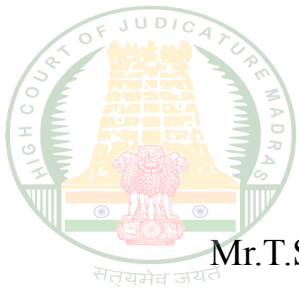
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second respondent has already filed her objection for any document being presented by the Writ Petitioner.

6.Prior to considering the objection, the second respondent had filed a Writ Petition in W.P.(MD)No.17946 of 2024 and this Court by an order, dated 31.07.2024, disposed of the said Writ Petition by recording the statement of the learned Special Government Pleader appearing for the first respondent that the protest petition filed by the second respondent would be considered and appropriate action will be taken, when the Writ Petitioner files a document for registration.

7.Challenging the refusal to register her memorandum of deposit of title deed, the petitioner is before this Court by way of this Writ Petition.

8.When the Writ Petition came up for admission, I took note of the order passed by this Court in W.P(MD)No.17946 of 2024 and *suo motu* impleaded, Tmt.Bavani, as a party to this Writ Petition. I adjourned the matter to enable the Counsel to get instructions. In the meantime,



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Mr.T.Sankara Subramaniam, filed an application to implead himself as a party to the Writ Petition claiming that he has moved the Debts Recovery Tribunal at Madurai in I.A.No.259 of 2023 in S.A.SR.No.285 of 2023. In order to give a complete adjudication to the dispute presented, I impleaded Mr.T.Sankara Subramaniam as a party to the Writ Petition.

9.I heard Mr.R.Aravindraj, for the petitioner, Mr.R.Suresh Kumar for the first respondent, Mr.A.Balaji for the second respondent and Mr.G.Thalaimutharasu, for the third respondent.

10.Mr.R.Aravindraj, after narrating the facts of the case, pleads that there is no bar under the Registration Act and the rules made thereunder to register the memorandum of deposit of title deed presented by the petitioner. He states that the second respondent, having executed a release deed in the year 2013, has no right to seek for partition. He points out that for the mere fact that the second respondent claims title to the property, it does not mean that the document presented by the petitioner for registration should be rejected.



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11.*Per contra*, Mr.A.Balaji, pleads that the second respondent has been strengthened with a decree in O.S.No.70 of 2022 dated 25.03.2024, and therefore, no document can be presented, which will adversely affect her rights.

12.Mr.G.Thalaimutharasu, states that the very foundation of the purchase made by the Writ Petitioner has been challenged by the third respondent before the Debts Recovery Tribunal at Madurai and this Court by an order, dated 13.02.2025 in W.P.(MD)No.10454 of 2023, had directed the Debts Recovery Tribunal at Madurai to dispose of the said proceedings at an earlier date. He states that if the SARFAESI Appeal is allowed, the very purchase, that has been made by the petitioner, would be rendered void and it will only add unnecessary complications, if a mortgage is created in the meantime.

13.Mr.R.Suresh Kumar, urges that the Sub Registrar has merely implemented the order passed by this Court and, as there are *inter se* disputes between the petitioner, second respondent and the third respondent, the Sub Registrar has not registered the document presented



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by the petitioner.

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14.I have carefully considered the submissions of both sides and gone through the records.

15.It is not in dispute that the Writ Petitioner had purchased the property in a SARFAESI sale. This SARFAESI sale has not attained finality, as it has been challenged by the third respondent and his father by way of a SARFAESI Appeal before the Debts Recovery Tribunal, Madurai. In the said proceedings, there is no order restraining the Writ Petitioner from alienating or encumbering the property. Similarly, the second respondent has presented a suit and has obtained a preliminary decree for partition. In that proceedings too, there is no interim order or permanent injunction restraining the Writ Petitioner from alienating or encumbering the property.

16.The petitioner, having purchased the right of the third respondent, has also got a sale deed from M/s.City Union Bank on 03.08.2022 and the same was registered in Doc.No.1477 of 2022. As



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long as the sale has not been set aside, the petitioner is entitled to reap the benefits of her purchase. The Sub Registrar cannot decide as to whom the property belongs. That is a job, which has to be done by this Court in the regular appeal preferred by the Writ Petitioner. The Sub Registrar and the respondents No.2 and 3, unless and until, point out a provision, which enables the Sub Registrar to refuse a document, he is duty bound to register a document presented by the Writ Petitioner. This is especially so, when the first respondent has already registered a sale deed executed in favour of the Writ Petitioner. The Sub Registrar need not wade into the *inter se* dispute between the petitioner and the second respondent, or the petitioner and the third respondent. I am sure that the second and third respondents are competent to represent their interest before the Court and Tribunal, respectively, and obtain appropriate orders before the Tribunal, if they have made out a case.

17.The Sub Registrar seems to have been under an impression that this Court had directed him to reject the document in W.P.(MD)No.17946 of 2024. In that proceedings, this Court merely recorded the statement of the Special Government Pleader that the objection would be considered



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and appropriate orders will be passed. Consideration of an objection does not mean that the Sub Registrar can assume the power of a civil Court and reject a document presented to him, when he is otherwise not empowered to do so.

18.In the light of the above discussion, the Writ Petition succeeds;

(1)The impugned order, dated 11.02.2025 is quashed;

(2)There shall be a direction to the first respondent to register the mortgage deed presented by the Writ Petitioner in favour of M/s.Indian Overseas Bank;

(3)The mortgage so executed will be subject to the result of the SARFAESI Appeal preferred by the third respondent and the regular appeal preferred against the judgment and decree in O.S.No.70 of 2022; and

(4)No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
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25.03.2025

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The Sub Registrar,
Office of the Sub Registrar,
Vathirairuppu, Virudhunagar District.



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V. LAKSHMINARAYANAN, J.

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