

W.P.(MD)No.5597 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.04.2025

CORAM

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

W.P.(MD) No.5597 of 2025

1.Sheik Umar

2.Shameema Fathima

... Petitioners

vs.

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

2.The Deputy Inspector General of Registration,
Deputy Inspector General of Registration Office,
Tirunelveli.

3.The District Registrar,
District Registrar Office,
Nagercoil,
Kanyakumari District.

4.The Sub Registrar,
Ganapathipuram Sub Registrar Office,
Ganapathipuram,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records on the file of the fourth respondent in Refusal Number: RFL/ராஜாக்கமங்கலம்/43/2025, dated 05.03.2025 and for quashing the same with a further direction to register the sale deed presented by



W.P.(MD)No.5597 of 2025

the writ petitioner in favour of one Ramadevi and for other consequential orders.

(cause title has been amended vide order dated 01.04.2025)

For Petitioners :Mr.R.Murugan

For Respondents :Mr.N.Ramesh Arumugam
Government Advocate

ORDER

The writ petition has been filed for a Certiorarified Mandamus, calling for the records on the file of the fourth respondent in Refusal Number: RFL/ராஜாக்கமங்கலம்/43/2025, dated 05.03.2025 and for quashing the same with a further direction to register the sale deed presented by the writ petitioner in favour of one Ramadevi and for other consequential orders.

2.The petitioners state that the land situated in S.No.296/16A2 of Neendakarai B Village, Agastheeswaram Taluk, Kanyakumari District, belonged to Tamil Nadu Industrial Investment Corporation Limited (*herein after referred to as TIIC*). One Devadhasan purchased the same from TIIC on 24.06.1999. Thereafter, Devadhasan sold the property to Abdhul Majeeth and Shameema Fathima. The sale was by way of a registered document in Doc.No.1983/1999 dated 21.10.1999.



W.P.(MD)No.5597 of 2025

WEB COPY 3.The petitioners state that Shameema Fathima/the second petitioner is the wife of the first petitioner. The first petitioner purchased the remaining $\frac{1}{4}$ share, which vested with Abdhul Majeeth in the year 2005. Therefore, the petitioners are the co-owners of the aforesaid property.

4.The petitioners attempted to alienate the property in favour of one Ramadevi and were informed that there is an entry of an order of attachment over the subject matter of the property and hence, it cannot be entertained. Hence, this Writ Petition.

5.When the matter came up for admission, Mr.N.Ramesh Arumugam, learned Government Advocate, took notice for the respondents. He pointed out that the petitioners had not even made an attempt to upload the records for the purpose of registration and therefore, there is no cause of action for the writ petition. Mr.R.Murugan took time to present the document and get back to this Court.



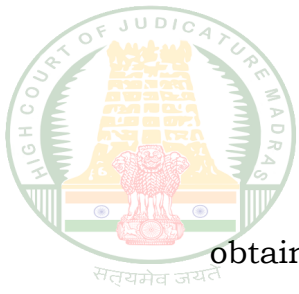
W.P.(MD)No.5597 of 2025

WEB COPY 6. When the matter was taken up today, Mr.R.Murugan has produced a refusal check slip dated 05.03.2025 and sought time to amend the prayer into one of Certiorari.

7. Taking into consideration the fact that the impugned check slip was passed pending this writ petition, the prayer sought for in this writ petition is modified into one of Certiorarified Mandamus as calling for the records on the file of the fourth respondent in Refusal Number: RFL/ராஜாக்கமங்கலம்/43/2025, dated 05.03.2025 and for quashing the same with a further direction to register the sale deed presented by the writ petitioner in favour of one Ramadevi and for other consequential orders.

8. Registry is directed to amend the prayer as sought for.

9. The narration of the facts shows that the petitioners had purchased the property from one Devadhasan. Prior to the purchase of Devadhasan from TIIC, one M/S.Jaya Enterprises, a proprietary concern, represented by its Proprietor, C.Jeya Ananth, had been the owner of the property. M/S.Jaya Enterprises had applied for and



W.P.(MD)No.5597 of 2025

obtained a term loan from TIIC on 20.06.1983. Pursuant to the grant of the loan, M/S.Jaya Enterprises had executed a registered mortgage dated 04.10.1983 in favour of TIIC. This was as a security for the loan.

10.M/s.Jaya Enterprises had defaulted in repayment of the mortgage, constraining TIIC to invoke powers under Section 29 of the State Financial Corporation's Act, 1951. TIIC brought the property for auction and the property was purchased by Devadhasan in an auction held on 11.11.1997.

11.Perusal of the sale deed executed by TIIC in favour of Devadhasan shows that the auction sale in favour of Mr.Devadhasan was accepted and confirmed by TIIC on 27.03.1998. On the sale being held of the mortgagor's property and when the petitioners' predecessor in title had purchased the property, whatever right, title and interest M/S.Jaya Enterprises had over the property stand vested with Devadhasan. The petitioners and one Abdhul Majeeth had purchased the property from the said Devadhasan by way of a registered document on 21.10.1999.



W.P.(MD)No.5597 of 2025

WEB COPY 12.In terms of Section 22B(3) of the Registration Act, 1908, there is a bar for registration of a document as long as the property is attached either provisionally or if the attachment has been made absolute. A perusal of the records produced by Mr.N.Ramesh Arumugam shows that the attachment made in E.P.No.146 of 2003 in O.S.No.37 of 1991 on the file of the I Additional Subordinate Judge, Nagercoil, merged into a sale held by the Court on 20.09.2007. Therefore, the bar under Section 22B(3) of the Registration Act, 1908, does not operate.

13.This leaves out another objection of Mr.N.Ramesh Arumugam that there is already a document on record. In a similar situation in ***T.Senthilvel Vs. District Registrar (Administration), Dindigul District and other, W.P.(MD) No.22114 of 2024, dated 17.10.2024***, this Court held that for the mere fact that there would be a double entry in respect of the property, registration cannot be refused.

14.That being the position, the impugned order cannot be sustained. The impugned order is quashed. There shall be a direction



W.P.(MD)No.5597 of 2025

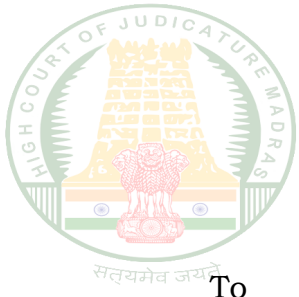
to the fourth respondent to register the sale deed presented by the writ petitioner in favour of Ramadevi within a period of two weeks from the date of receipt of a copy of this order.

15.Insofar as the prayer made by Mr.R.Murugan that there should be a direction to delete the entry of Court auction sale in E.P.No.146 of 2003 in O.S.No.37 of 1991 on the file of the I Additional Subordinate Judge, Nagercoil is concerned, this position is covered by a judgment of a Division Bench of this Court in ***Tamil Nadu Mercantile Bank Vs. the Sub Registrar, Joint I, Sub Registrar Office, Salem East and others, 2024-2-Writ L.R. 649***. The Division Bench held that there is no power to give a direction to delete the entry made in the encumbrance certificate. Accordingly, that prayer stands rejected. The mere registration of the document will not confer title on Ramadevi. In case there is a dispute as regards title, it will have to be decided by the jurisdictional civil Court.

16.The Writ Petition stands ordered, accordingly. No costs.

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
mm

01.04.2025



W.P.(MD)No.5597 of 2025

To
WEB COPY

- 1.The Inspector General of Registration,
Santhome High Road,
Chennai.
- 2.The Deputy Inspector General of Registration,
Deputy Inspector General of Registration Office,
Tirunelveli.
- 3.The District Registrar,
District Registrar Office,
Nagercoil,
Kanyakumari District.
- 4.The Sub Registrar,
Ganapathipuram Sub Registrar Office,
Ganapathipuram,
Kanyakumari District.



WEB COPY



W.P.(MD)No.5597 of 2025

V. LAKSHMINARAYANAN, J.

mm

W.P.(MD)No.5597 of 2025

01.04.2025