



WA(MD). No.432 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 04/03/2025

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs. JUSTICE S.SRIMATHY

WA(MD). No.432 of 2025

Jothilakshmi

... Appellant

v.

1.The Deputy Inspector General of Registration,
Registration Department, Thirumohur Road,
Othakadai, Madurai.

2.The District Registrar (Administration)
Registration Department
Collectorate Campus, Dindigul

3.G.Selvaraj

4.S.Sasikala

5.K.Balasubramani

6.Gazini Mohamed

... Respondents

PRAYER :- Writ Appeal filed under Clause 15 of Letters patent against
the order of this Court dated 25.01.2023 in WP(MD). No.28205 of 2022.

For Appellant : Mr.A.Haja Mohideen
For Respondents : Mr.P.T.Thiraviyam for R1&R2
Government Advocate
No appearance for R3 to R6



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JUDGMENT

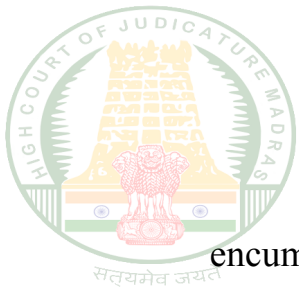
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(Judgment of the Court was delivered by J.NISHA BANU,J.)

The writ appeal is directed against the order of the writ Court dated 25.01.2023 in WP(MD) No.28205 of 2022.

2. The writ petitioner is the appellant herein.

3. The appellant had filed the writ petition for a direction to the 2nd respondent to remove the encumbrance of the properties in S.No.1569/ to an extent of 2 Acre 17 cents and S.No.1575/2 to an extent of 2 Acres 96 cents at Villpatti Village, Kodaikanal. The said encumbrance was created vide a registered mortgage deed dated 28.03.2005, in and by which, the parents of the appellant had given power of attorney to the 5th respondent and the 5th respondent in turn had mortgaged the properties in favour of the 6th respondent and the same has also been registered. The writ petition was filed by the appellant on the ground that the parents or any other third parties have no locus standi to create such an encumbrance since the properties stand in the name of the minor, ie., the appellant herein. Without approaching the Court of law, they have created such an

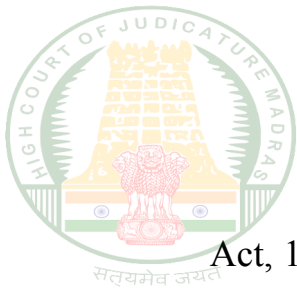


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encumbrance and to remove the said encumbrance, the petitioner has filed the writ petition.

4. The writ Court dismissed the writ petition on the ground that such a prayer cannot be maintained in a writ petition and made an observation that the petitioner has to approach the jurisdictional civil Court, if she is aggrieved and her civil rights are infringed. Challenging the said dismissal order, the petitioner is before this Court with this appeal.

5. The learned counsel for the appellant would submit that the petition mentioned properties stand in the name of the appellant, which was given in her favour by her grant parents. The respondents 3 and 4 being the parents of the appellant has given power of attorney in favour of the 5th respondent, who, in turn, created a registered mortgage in favour of the 6th respondent. The ground that has been taken is that neither the parents, being the guardian of the petitioner nor the 5th and 6th respondent can have any right to create such an encumbrance and instead Section 8(2)(a) and 4 of the Hindu Minority and Guardianship



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Act, 1956, is to be invoked. The writ Court failed to consider this aspect and dismissed the petition. Hence, the appellant prays for interference.

6. We have considered the rival submissions and perused the materials available on record.

7. From the submission of the learned counsel for the appellant, it is clear that the writ Court has rightly held that the encumbrance created over the petition mentioned properties can only be agitated before the civil Court and such a relief cannot be granted in writ proceedings. The issue with regard to guardianship and the registered mortgage are to be agitated only before the civil Court by adducing oral and documentary documents. Hence, no interference is warranted to the order of the writ Court. Accordingly, the writ appeal stands dismissed. No costs.

[J.N.B.,J]

[S.S.Y.,J]

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NCC : Yes/No

Index : Yes/No

RR

4/6



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ORDER
IN
WA(MD) No.432 of 2025

Date : 04/03/2025