

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.15383 of 2015

M.R.Srinivasan

..

Petitioner

-vs-

The Authorised Officer/Chief Manager
Indian Overseas Bank
Asset Recovery Management Branch
Central Office
Annexure Building (I Floor)
763, Anna Salai
Chennai 600 002

..

Respondent

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus, directing the respondent to remove the wordings namely 'Note: A civil suit bearing C.S.No.736/2007 on the file of Hon'ble High Court of Chennai filed by Arulmigu Madhava Perumal Thirukoil represented by its Executive Officer claiming title over their property is pending' from the sale certificate dated 01.07.2013 and consequently direct the respondent to issue a fresh sale certificate to the property purchased by the petitioner.

For Petitioner :: Mr.M.Vijay Anand

For Respondent :: Mr.F.B.Benjamin George

ORDER

This writ petition has been filed by Mr.M.R.Srinivasan seeking a mandamus directing the respondent herein to remove the wordings, namely, 'Note: A civil suit bearing C.S.No.736/2007 on the file of Hon'ble High Court of Chennai filed by Arulmigu Madhava Perumal Thirukoil represented by its Executive Officer claiming title over their property is pending' from the sale certificate dated 1.7.2013 with a consequential direction to the respondent to issue a fresh sale certificate to the property purchased by the petitioner based on his representation dated 4.5.2015.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondent.

3. The petitioner became the successful bidder in the auction sale pertaining to the property situated at No.12/13, Flat No.6, Second Floor, Kanagasree Nagar, Cathedral Road, Gopalapuram, Chennai 600 086 on 7.5.2013. The petitioner, having quoted the highest bid amount of Rs.71,00,000/-, took the property, since the same was also confirmed by the respondent vide the confirmation letter dated 7.5.2013. Even as per the terms and conditions stipulated in the tender notification, the petitioner had remitted the entire sale consideration and subsequently he has demanded the respondent to provide the draft copy of the sale certificate on 31.5.2013. Accepting the demand of the petitioner, the respondent also forwarded the draft sale certificate, wherein it has been mentioned that the property sold in the auction to the petitioner is the subject matter of suit in C.S.No.736 of 2007 before the High Court of Madras. Immediately on noticing the same, the petitioner, on perusal of the records of the property claimed in the aforementioned suit, found that the said suit property is totally different from the property purchased by the petitioner in the e-auction held on 7.5.2013. In view thereof, the petitioner made a request to the respondent to delete the note, which runs as follows:-

'Note; A civil suit bearing C.S.No.736/2007 on the file of Hon'ble High Court of Chennai filed by Arulmigu Madhava Perumal Thirukoil represented by its executive officer claiming title over their property is pending.'

Finding no response, the petitioner sent another letter dated 8.6.2013. Again the said request went into cold storage. Hence, the writ petition.

4. Mr.F.B.Benjamin Geroge, learned counsel for the respondent, after filing a counter affidavit, fairly submitted before this Court that the property covered under the present writ petition was indeed brought for sale for recovery of Rs.33,77,30,257/- by fixing an upset price of Rs.70 lakhs. Only while issuing the sale notice, by oversight, the respondent included the 'note' about the pendency of the suit also in the tender notice. In the auction sale, the bid amount of Rs.71 lakhs offered by the petitioner was accepted by the respondent. But, as claimed by the petitioner, the pending suit in C.S.No.736 of 2007 has nothing to do with the property sold to the petitioner. Hence, the request of the petitioner will be duly considered.

5. Recording the statement made by the learned counsel for the respondent, this Court hereby directs the Chief Manager/Authorised

Officer, Indian Overseas Bank, Central Office, Anna Salai, Chennai to remove the wordings/note, both in the sale certificate and in the terms and conditions of sale notice, within a period of one week from the date of receipt of a copy of this order. The writ petition stands allowed. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

ss

To

1. The Authorised Officer/Chief Manager
Indian Overseas Bank
Asset Recovery Management Branch
Central Office
Annexure Building (I Floor)
No.763, Anna Salai
Chennai 600 002

+1 cc to Mr.F.B.Benjamin George, Advocate, sr.37454
+1 cc to Mr.M.Vijay Anand, Advocate, sr.37564

W.P.No.15383 of 2015

ad(co)
kra(27/08)

सत्यमेव जयते

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