

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.5032 of 2015 &
M.P.No.1 of 2015

Dhanlaxmi Bank Limited,
Rep. By its Authorised Signatory
Kilpak Branch situated at
No.19/43, Ground Floor,
Taylors Road, Kilpauk, Chennai. [PETITIONER]

Vs

1. The Assistant Commissioner,
Urban Land Tax Office,
Alandur, Tambaram - Kunrathur Zone,
No.153, Karuneegar street, Adambakkam,
Chennai 600 088.
2. The Special Commissioner and
Commissioner of Land Reforms
Chepauk, Chennai 600 005.
3. The Sub Registrar,
Saidapet, Chennai 600 015. [RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for records pertaining to letter No.Na.Ka.370/2014/A dated 19.9.2014 issued by the 1st respondent and to quash the same and to direct the 3rd respondent to register the property as mentioned in the Schedule hereunder.

For Petitioner ..Mr.K. Rajasekaran
For Respondents ..Mr.R.Rajeswaran
Special Government Pleader

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.K.Rajasekaran, learned Counsel appearing for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader appearing for the respondents.

3. The petitioner is a Bank who had advanced certain loans to one Anup Kumar Singhi, and as a security for the said loan transactions, the property documents pertaining to the property bearing Door No.5/15, 1st Cross Street, Natesan Nagar, Ramapuram, Chennai-89, was mortgaged in favour of the petitioner Bank. The borrower defaulted in payment and the property was brought for sale by invoking the provisions of SARFAESI Act and one Mr.Somanathan, has purchased the property in the auction sale conducted by the petitioner Bank. When the petitioner approached the third respondent for registration of the sale certificate, the third respondent has directed the petitioner to obtain no objection certificate from the first respondent who is presently the authority exercising the powers under the Tamil Nadu Urban Land Ceiling and Regulation Act (since repeal). As per the impugned communication, it is stated that an extent of 8300 sq.mtr in Survey No.108/1m Ramapuram village, Maduravoyal, Chennai, were declared as surplus land in the hands of the original land owner Mr.Natesan.

4. From the documents filed in the typed set of papers, it is seen that the legal heirs of the said Natesan had sold the subject property, which is a smaller extent out of the larger extent of 8300. Sq.mtr. to one Kalpana by registered sale deed dated 20.4.1989, registered as document No.1558 of 1989, on the file of the Sub Registrar, Alandur. The said Kalpana had created a mortgage in favour of the Co-operative Bank by a registered deed of mortgage dated 12.8.1998, registered as document No.949 of 1998. Subsequently, the mortgage was redeemed and the encumbrance certificate was cancelled. Subsequently, Kalpana, sold an extent of 1,512 sq.ft. to one Selvi by registered sale deed dated 23.9.2002 and the said Selvi has sold the land to one S. Kasturi vide sale deed dated 07.9.2006, who in turn sold to one Lal Chand, by registered sale deed dated 27.8.2009, and subsequently said agreement was cancelled by a registered cancellation deed dated 8.10.2010, and said Kasturi sold the property in favour of Anup Kumar Singi, by registered sale deed dated 18.8.2011. The said purchaser Anup Kumar Singi, had mortgaged the property in favour of the petitioner Bank and availed the loan and on default committed by him, the property has now been sold under public auction under the provisions of SARFAESI Act.

5. It cannot be disputed that the property in question is a house and the contention that lands were taken possession on 27.12.1995 at best be only paper possession compensation and not actual physical possession. If the first respondent had invoked

the provisions of the Land Ceiling Act and issued notice under section 11(3) of the said Act and if the land owner had not surrendered possession then auction has to be resorted under section 11(5) of the Act.

6.This appears to have not been done and could not have been done, since it is a dwelling unit. Therefore, the contention that the petitioner has to obtain no objection certificate from the first respondent is not sustainable in law.

7.In the result, the third respondent is directed to register the sale certificate dated 20.6.2014 without insiting on any no objection certificate from the first respondent. It is submitted by the learned counsel for the petitioner Bank that on account this issue, the successful bidder has been put to some other problems and there is possibility that the petiotiner would have to bring the property for fresh sale. In such an event also this order will protect the interest of the Bank.

The Writ Petition is allowed on the above terms. No costs. Consequently, connected Miscellaneous Petition is closed.

SCHEDULE OF THE PROPERTY

All that piece and parcel of land measuirng 1512 sq.ft. (1613 sq.t. as per patta) bearing Door No.5/15 (Old No.5/349), Plot No.23, 1st Cross Street, Natesan Nagar, Ramapuram, Chennai - 600089 comprised in S.No.108/1, situated in 102, Ramapuram Village, Ambattur Taluk, Tiruvallur District in the name of Mr.Anup Kumar Singhi, being bounded on the

North by: S.No.108/1(P)

South by: 20' Road

East by : Plot No.24

West by : Plot No.22

Measuring:

North to south on the Eastern side : 47 ½ feet

Western Side: 48 ½ feet

East to West on the Northern side : 30 feet

Southern side : 33 feet

Together with a building constructed thereon and situated within the Sub Registration District of Joint II, Saidapet in the Registration District of Chennai South.

rpa

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

To

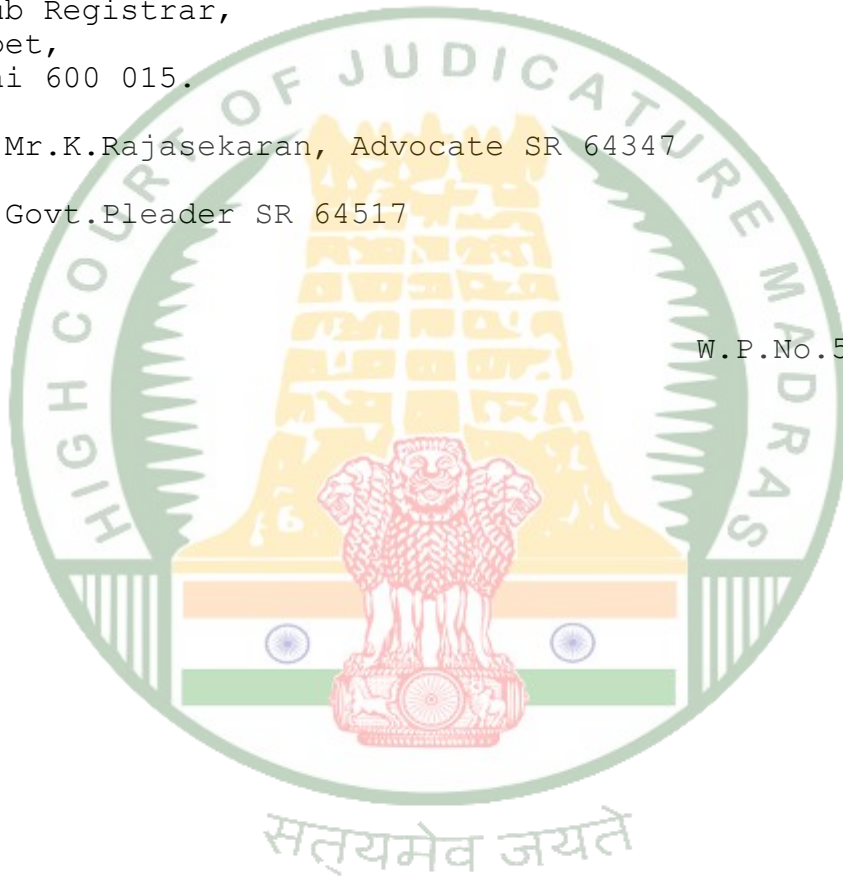
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Chennai 600 015.

+ 1 cc to Mr.K.Rajasekaran, Advocate SR 64347

+ 1 cc to Govt.Pleader SR 64517

mg(co)
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