

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2016

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.8980 of 2016

The Assistant General Manager

State Bank of India,
Stressed Asset Management Branch,
Raja 'Plaza 1st Floor, No.112, Avinashi Road,
Coimbatore-641 037.

... Petitioner

Vs.

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. The District Registrar (Administration),
South Chennai, Saidapet, Chennai-600 015.
3. The Sub Registrar,
Office of the Sub-Registrar,
Velachery, Chennai-600 042.
4. Mr.Ravindran Vincent
5. Mrs.Rajithakumari
6. Mrs.A.Sarojini Ammal
7. Mrs.Mariaselvi
8. Mrs.C.Mary
9. Mrs.Mallika
- 10.Mrs.Vennila
- 11.Ms.A.Mary
- 12.Mrs.Mothi
- 13.Mr.G.Venkatesan
- 14.Mr.A.K.Subramani
- 15.Mr.Ruban Fernandez
- 16.Mrs.A.Arumaidoss
- 17.Mr.Kishore Kumar
- 18.Mr.Saji Kumar
- 19.Mr.A.Hariharan
- 20.M/s.Kumaran Promoters,
rep. by its Managing Partner Mr.P.R.Babu,
No.3, Rangan Street, T.Nagar,
Chennai-600 017.

21.Mr.S.Thiyagarajan
22.Mr.Ananda Rao
23.Mr.Syed Abdul Rahim
24.Mr.Albert Annavai
25.Mrs.Jayamani Bates
26.Mr.A.K.Venugopal

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, directing the respondents 1 to 3 to conduct an enquiry and cancel the documents namely Settlement Deeds, Agreement to Sell other encumbrances by the respondents 4 to 26 (morefully described in the Petition) in the light of the Circular No.67 of 2011 dated 03.11.2011 and make endorsement by way of note of annulment in relevant books on the basis of the representation made by the petitioner on 27.03.2015.

For Petitioners : Mr.S.Sethuraman

For respondents : Mr.S.Pattahiraman,
Government Advocate

ORDER

This writ petition has been filed by the petitioner praying for issuance of a Writ of Mandamus, praying for issuance of a Writ of Mandamus, directing the respondents 1 to 3 to conduct an enquiry and cancel the documents namely Settlement Deeds, Agreement to Sale other encumbrances by the respondents 4 to 26 in the light of the Circular No.67 of 2011 dated 03.11.2011 and make endorsement by way of note of annulment in relevant books on the basis of the representation made by the petitioner on 27.03.2015.

2.In the affidavit filed in support of the writ petition, it has been averred by the petitioner/Bank as follows:-

2-1.One M/s.Rukmini Mill Limited had availed credit facilities from the petitioner/Bank at Madurai for its business purpose. To secure the said limits, M/s.Associated Trading Corporation Private Limited had offered its property and had created mortgage by deposit of the Title Deeds in favour of the petitioner/bank on 12.04.1984 in respect of the property comprised in Paimash Nos.240, 241, 242, 718, 719, 720, 721, 722, 737, 854 and 855 in all measuring 10.07 acres situated at Adambakkam Village, Alandur Sub-Division, Chennai District. The original title deeds of the mortgaged property were deposited with the petitioner/bank in the year 1984. Due to the default in repayment of the loan amount, the mortgaged properties became a non-performing asset on 01.06.1992 and proceedings under SARFAESI Act were initiated

against the borrower/mortgagor/guarantors. As per the order of the District Court of Chengalpattu, physical possession of the said properties was taken under Section 14 of the SARFAESI Act on 15.11.2011.

2-2.Meanwhile, the Special Tahsildar (Requisition) by letter dated 12.04.2002 informed the petitioner/Bank that an extent of 7,350 sq.mtr was acquired in T.S.Nos.3, 13 & 138 (old Survey Nos.19 and 20) by the Government of Tamil Nadu for the purpose of Ring Road formation. The petitioner obtained Town Survey Field Register copy of the balance extent of land. In the said field register, the name of the owner is shown as M/s.Associated Trading Corporation Private Limited and the area is shown as 26,960 sq.mts (6.65 acres). After acquisition, a new Survey No.T.S.No.282 was allotted for the said extent of 6.65 acres of land. Later on, it came to the knowledge of the petitioner/Bank from the Encumbrance Certificate that the respondents 4 to 26 have encroached the property mortgaged with the Bank by virtue of the fabricated documents in their name.

2-3.The respondents 6 to 9 & 14 to 18 have filed a suit in O.S.No.403/2012 on the file of the District Munsif Court, Alandur, Chennai, against the petitioner/Bank and M/s.Associated Trading Corporation Private Limited, seeking for permanent injunction restraining them from interfering with the plaintiff's peaceful possession and enjoyment of the subject property. In the said suit, the petitioner/Bank filed an application under Order 7 Rule 11 of C.P.C, for rejection of the plaint and the same was allowed by the Court below and the plaint filed by the said respondents were rejected by order dated 08.07.2013.

2-4.It is further stated by the petitioner that The Inspector General of Registration has issued a Circular No.67, dated 03.11.2011, which empowers the District Registrars to enquire and investigate into the fraudulent transaction including forged document. Hence, the petitioner/Bank has given a representation dated 27.03.2015 to the 2nd respondent seeking to cancel the fraudulent settlement and mortgage deeds to restore the rights of the petitioner/bank in respect of the subject properties. Since the petitioner's representation was not considered by the respondent, the petitioner has filed the present writ petition for the relief as stated supra.

3.Heard both sides and perused the materials available on record.

4.Considering the limited scope of the prayer sought for in the writ petition, without expressing any opinion on the

claim of the petitioner, this Court directs the 2nd respondent to consider the representation dated 27.03.2015 given by the petitioners and pass appropriate orders, after affording opportunity of personal hearing to the petitioners as well as to the private respondents herein and all other necessary parties, on merits and in accordance with law, within a period of eight weeks from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssv

To

1. The Inspector General of Registration,
No.100, Santhome High Road,
Chennai-600 028.
2. The District Registrar (Administration),
South Chennai, Saidapet,
Chennai-600 015.
3. The Sub Registrar,
Office of the Sub-Registrar,
Velachery, Chennai-600 042.

+1cc to Mr.S.Sethuraman, Advocate, S.R.No.15579
+1cc to the Government Pleader, S.R.No.15720

W.P.No.8980 of 2016

LRS(CO)
CA(28/03/2016)

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