

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.19143 of 2018 and
W.M.P.No.22521 of 2018

Deep Chand Jain

.. Petitioner

Vs.

1.The Sub Registrar,
Ashok Nagar,
Chennai Central District,
Chennai Zone.

2.The Inspector General of Registration,
Santhome High Road,
Mylapore, Tamil Nadu - 600 028.

.. Respondents

Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of certiorarified mandamus calling for the records in TP.No.TP/2019289/2018 as per online website registration in <https://tnreginet.gov.in/portal> on the file of the 1st respondent and quash the same and thereby direct the 1st respondent to register the Sale Deed in favour of the petitioner as per the Draft Sale Deed submitted by the petitioner in TP/2019289/2018.

For Petitioner : Mr.M.Sunil Kumar

For Respondents: Mr.T.M.Pappiah,
Special Government Pleader

O R D E R

This Writ Petition has been directed against the impugned proceeding of the 1st respondent, simply mentioned in one word as "rejected", without assigning any reason.

2.The learned counsel for the petitioner submitted that the land and building bearing New Door No.41/3, Old Door No.16/3, Very Old Door No.15, Srinivasa Iyer Street (Vivekanandapuram 2nd Street), West Mambalam, Chennai - 33, comprised in S.No.165/32 (part), T.S.No.66, Block No.38 of Kodambakkam Village, Guindy - Mambalam Taluk, Chennai measuring 1320 sq.ft., with a right of common passage measuring an extent of 551 sq.ft., was mortgaged by one P.S.Vinayagamoorthy in favour of Jayanthilal. As the said P.S.Vinayagamoorthy failed to repay the loan for successive

three months, the mortgagee had a right to bring the property to Auction Sale as per Section 69A of the Transfer of Property Act. In the auction conducted, the petitioner was declared as the highest bidder and letters were also issued to the mortgagor viz., P.S.Vinayagamorthy and the mortgagee viz., Jayanthilal.

3.The learned counsel for the petitioner further submitted that as per Section 69A of the Transfer of Property Act, if the mortgagor fails to turn up for executing the Sale Deed, the Mortgagee has to execute the Sale. Therefore, the petitioner prepared the draft Sale Deed and as per the procedure entered the details and generated Temporary Process Number TP/2019289/2018 for verification and approval for registration. Although the petitioner had explained all the details of the entire transaction, the backdrop on which the auction was conducted and that he was declared as the highest bidder, the 1st respondent rejected the registration for the reason that the power of sale is valid only when the mortgage is English mortgage/not for simple mortgage, which is not correct. Hence, the impugned order has to be set aside. The learned counsel also submitted that the impugned proceeding mentions only one word and no reason has been assigned in it.

4.The learned Special Government Pleader appearing for the respondents fairly submitted that the impugned order necessarily has to go as it is bad in law for the reason that the petitioner has been declared as the successful bidder and the Sale Deed presented by him has to be registered by the 1st respondent.

5.Recording the above submission, the cryptic impugned order mentioned in one word "Rejected" is hereby quashed. The 1st respondent is hereby directed to register the Sale Deed within a period of one week from the date of receipt of a copy of this order.

6.In the result, the Writ Petition is allowed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

va

To

1.The Sub Registrar,
Ashok Nagar, Chennai Central District,
Chennai Zone.

2.The Inspector General of Registration,
Santhome High Road,
Mylapore, Tamil Nadu - 600 028.

+1cc to Government Pleader sr.no.51438

+2cc to Mr.M.Sunil Kumar, Advocate sr.no.50217

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nr 06/08/2018



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