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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 23.02.2018**

CORAM

**THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM
AND**

THE HONOURABLE MRS. JUSTICE R. THARANI

W.P. (MD) .No.2434 of 2018

and

W.M.P (MD) Nos.2627 & 2628 of 2018

M.Ganesh

... Petitioner

Vs.

1. The Authorized Officer,
UCO Bank,
Theni Branch,
371, AVR Compound,
Nehruji Road,
Theni - 625 531.
2. The Sub-Registrar,
Sub-Register Office,
Theni.
3. The Executive Officer,
Veerapandi Town Panchayat,
Veerapandi,
Theni Taluk.
4. The Assistant Electrical Engineer,
Tamil Nadu Electricity Board,
Palanichettipatti,
Theni District.
5. The General Manager,
Banking Sector Operation,
Reserve Bank of India,
Rajaji Salai,
Chennai.
6. R.Senthikumar
7. A.Nandini

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned sale deed dated 03.08.2017 in Document No.4367/2017 executed by the 1st respondent in favour of the 6th and 7th respondents registered on the file of the 2nd respondent office and to quash the same and to direct the 2nd respondent to restore the property in the petitioner's name.



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For Petitioner	: Mr.V.Santhakumaresan
For R - 1	: Mr.Pala Ramasamy
For RR 2 & 3	: Mr.D.Muruganandham, Additional Government Pleader
For R - 4	: Mr.S.M.S.Johnny Basha
For R - 5	: Mr.K.R.Laxman
For RR 6 & 7	: Mr.C.Murugavel

O R D E R

[Order of the Court was delivered by **T.S.SIVAGNANAM, J.**]

Heard Mr.V.Santhakumaresan, learned counsel for the petitioner, Mr.Pala Ramasamy, learned counsel for the first respondent, Mr.D.Muruganandam, learned Additional Government Pleader for the respondents 2 and 3, Mr.S.M.S.Johnny Basha, learned counsel for the fourth respondent, Mr.K.R.Laxman, learned counsel for the fifth respondent and Mr.C.Murugavel, learned counsel for the respondents 6 and 7.

2. The petitioner has filed this writ petition challenging the sale deed executed by the first respondent Bank in favour of the respondents 6 and 7. The petitioner had availed a loan from the first respondent Bank and defaulted in payment. Therefore, the respondent Bank initiated action under the provisions of SARFAESI Act. Challenging the same, the petitioner moved the Debt Recovery Tribunal in S.A.No.68 of 2016 and also sought for a stay of all further proceedings in I.A.No.391 of 2016. The Debt Recovery Tribunal granted an order of interim injunction, on 22.02.2016, restraining the respondent Bank not to confirm the sale till 25.04.2016, subject to payment of Rs.4,50,000/- on or before 22.03.2016 and another Rs.4,50,000/- on or before 22.04.2016. The petitioner did not comply with the condition, as a consequence, the order of interim injunction was vacated and consequently, the S.A.No.68 of 2016 was dismissed. Thereafter, the Bank has proceeded with the matter and the property has been sold and the private respondents have purchased the property. Now, by way of this writ petition, the petitioner has challenged the registered sale deed. Such a prayer cannot be acceded to and no writ of certiorari can be issued to set aside a registered instrument.

3. The learned counsel for the petitioner would contend that the sale conducted by the first respondent Bank is vitiated, as fresh notice was required to be issued after the dismissal of the S.A.No.68 of 2016 filed by the petitioner before the Debt Recovery Tribunal. In our considered view, this issue cannot be agitated in the writ petition as the petitioner has to necessarily approach the Debt Recovery Tribunal for necessary relief, if he is aggrieved by the impugned transaction. In any manner. For the above reasons, the writ petition is held to be not maintainable



and is liable to be dismissed, leaving it open to the petitioner to work out his remedy before the appropriate forum as provided under the provisions of SARFAESI Act. Accordingly, the writ petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Authorized Officer,
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Theni District.
5. The General Manager,
Banking Sector Operation,
Reserve Bank of India,
Rajaji Salai,
Chennai.

+1cc to Mr.V.Santhakumaresan, Advocate Sr.No.51172
+1cc to Mr.Pala Ramasamy, Advocate Sr.No.50992
+1cc to Mr.C.Murugavel, Advocate Sr.No.50839
+1cc to Spl.Government Pleader Sr.No.51300

AKV

VB/KK/SAR3/02.04.2018/3P/10C