

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM

THE HON'BLE MR.JUSTICE P.D.AUDIKESSAVALU
W.P. No. 10272 of 2019

M/s.EDELWEISS Housing Finance Limited (EHFL)
Having Regional Office at:
7th and 8th Floor, Kochar Town,
No.19, Venkatanarayanan Road,
T.Nagar, Chennai 600 017
Through its Authorized Officer
Mr. Neethirajan. ... Petitioner

-Vs-

- 1.The Sub Registrar,
Sub Registrar Office
Tiruvallur,
Tiruvallur District.
- 2.The Inspector of Police
District Crime Branch
Tiruvallur. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the First Respondent to register the sale certificate dated 26.02.2019 issued in the name of the purchaser Mr.G.M.Arun Prakash.

For Petitioner : Mr. V.Balasubramani
For Respondents : Mr. T.M.Pappiah, for R1
Special Government Pleader
: Mr. M.Karthikeyan, for R2
Additional Government Pleader

ORDER

The Writ Petition has been filed for a direction to the First Respondent to register the sale certificate dated 26.02.2019 issued in the name of the purchaser Mr. G.M. Arun Prakash.

2. The First Respondent has filed a Memo dated 16.08.2019, in which it has been stated as follows:-

"One, Mrs.Selvakumari, wife of Mr.Velpandi, has purchased undivided share of 241.33 sq.ft in land in plot No.72, comprised in Survey No.235/17, Kakalur Village through Sale Deed

registered as document No.10887 of 2015. On the same day she entered into a construction agreement for construction of flat bearing No.G2, registered as document No.10889 of 2015 in this office.

To meet the construction cost she mortgaged the aforesaid land to the Petitioner, herein, through memorandum of deposit of title deeds registered as Document No.10888 of 2015.

Since the borrower/mortgagor, Mrs.Selvakumari failed to repay the debt and the debt became non-performing Asset, the Petitioner, herein, by virtue of the powers conferred in SARAFAESI Act, brought the property through public auction and executed a Sale Certificate dated 26.02.2019 in favour of one Mr.Arunprakash and presented the same for registration before this Respondent. But this Respondent requested the Petitioner, herein, to present the Sale Certificate in question along with the original title deed of the borrower so as to make a note of verification in the original title deed so as to scan the same along with the sale certificate in question as per the extant circular of the Inspector General of Registration. At the same time a copy of the Second Respondent's letter dated 09.12.2016 was also handed over to the Petitioner, herein, to make note of the contents which requested this respondent not to register any document pertaining to the properties of Mrs.Selvakumari, the borrower and her husband Thiru. Velpandi.

I state that it is well settled that the secured creditor always has priority over non-secured creditors and a such the request of the Second Respondent cannot be complied with. In the instant case the Second Respondent's letter has nothing to do with the sale certificate in question, provided if the Petitioner presents the sale certificate in question along with the original title deed of the borrower, the same will be registered if it is otherwise in order in accordance with the Indian Stamp Act, 1899 and Registration Act, 1908 and rules made there under."

Learned Counsel for the Petitioner made an endorsement acknowledging the receipt of the copy of the memo.

4. Recording the aforesaid submissions made by the First Respondent that the sale certificate would be

registered, if it is presented along with the original title deed of the borrower, if it is otherwise in order, the Writ Petition is disposed. No costs.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

dna/kv

To

1.The Sub Registrar,
Sub Registrar Office
Tiruvallur,
Tiruvallur District.

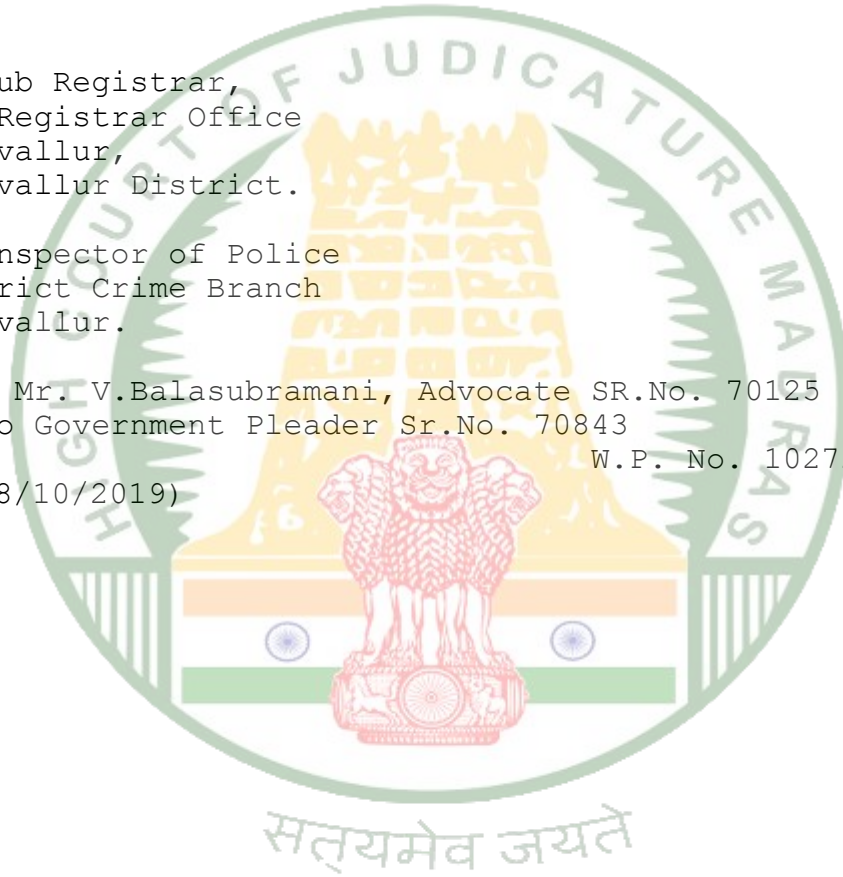
2.The Inspector of Police
District Crime Branch
Tiruvallur.

+1cc to Mr. V.Balasubramani, Advocate SR.No. 70125

+1 cc to Government Pleader Sr.No. 70843

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A.SK(18/10/2019)



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