

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.02.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.39283 of 2016

V.Subhasini

.. Petitioner

Vs.

- 1.Authorised Officer/Chief Manager,
Bank of India,
(Cathedral Road Branch),
Garuda Building,
46, Cathedral Road,
Chennai.
- 2.The Inspector General,
The Inspector General & Registration,
100 Santhome High Road,
Mylapore, Chennai.
- 3.The Sub-Registrar,
O/o.The Sub-Registrar - Thiruvotriyur,
21/8, Market Street, Kaladipet,
Thiruvotriyur, Chennai - 600 019.
- 4.The Authorised Officer,
Margadarsi Chits Pvt. Ltd.,
No.6, Chambers of Commerce Building,
Esplanade Road,
Chennai - 1.
- 5.M/s.Dhinakaran Medical Agencies,
Proprietor Dhinakaran,
No.27B, Madhavaram High Road,
Sembium, Chennai - 11.

.. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to receive and register the sale certificate and also directing the third respondent to mark the entries in relevant records over the property situated at

Chinnasekkadu Village in S.Nos.472, 473. 452A & B, 453A & B in New S.No.3/5 Door No.10/3B Kannairam Cross Street, Manali, Chennai measuring an extent about 2409 sq.fts. and building constructed ground floor 500 sq.fts. after the confirmation of sale favouring the petitioner.

For Petitioner : Mr.S.N.Kirubanandam
For R1 : Mr.S.Sathiyarayanan

For RR2 & 3 : Mr.T.M.Pappiah,
Special Government Pleader

For RR4 & 5 : Not ready in notice

O R D E R

The petitioner has come up with this Writ Petition seeking a direction to the third respondent to receive and register the sale certificate and also to mark the entries in relevant records over the property situated at Chinnasekkadu Village in S.Nos.472, 473. 452A & B, 453A & B in New S.No.3/5 Door No.10/3B Kannairam Cross Street, Manali, Chennai measuring an extent about 2409 sq.fts. and building constructed therein in ground floor measuring 500 sq.fts., after the confirmation of sale favouring the petitioner.

2. The petitioner is an auction purchaser in SARFAESI proceedings through "E" auction. She was declared as successful bidder in the "E" auction and had paid the total sale consideration to the first respondent-Bank. The sale certificate was prepared by the Bank and was also signed on 17.11.2014, but the third respondent refused to register the sale certificate, when it was presented on 19.11.2014. Therefore, a Writ petition in W.P.No.890 of 2015 was filed before this Court and a direction was issued on 13.01.2015, which reads as follows:

"3. On a perusal of the averments made in the writ petition, it is seen that the respondents have not even assigned any reason for refusing to accept the Sale Certificate for registration from the petitioners. Therefore, this Court is of the view that the second respondent should receive the documents and thereafter note down his objections, if any, and pass orders so as to enable the petitioners to workout their remedies in the manner known to law.

4. Accordingly, the petitioner is permitted to present the Sale Certificate before the second

respondent along with the copy of this order and the second respondent shall receive the same and pass appropriate orders on merits and in accordance with law so as to enable the petitioner-Bank to work out its remedy available to them under law."

3. Even though this Court had passed an order, the third respondent had not registered the same and refused to receive it for registration.

4. Heard the learned counsel appearing on both sides.

5. The learned counsel appearing for the third respondent had filed its counter objecting the averments made by the petitioner that the presentation of the document is beyond the prescribed time as per Section 23 and 25 of the Registration Act, 1908.

6. However, from the affidavit, which was produced today filed in the earlier W.P.No.890 of 2015, it is seen that the Sale Certificate was executed on 19.11.2014 and on the same day it was presented for registration. Thereafter, it has taken so much of time in getting the same registered, as the direction in W.P.No.890 of 2015 itself is passed only on 13.01.2015. Though the petitioner contended that the document was presented for registration, there is no mention about the date on which he presented the same after this Court passing the said order. However, considering the fact that in the earlier affidavit it is stated that the document was presented on 19.11.2014, which has not been disputed by the respondents, the document can be said to have been presented within time.

7. In such circumstances, the petitioner is now permitted to present the Sale Certificate before the third respondent along with a copy of this order within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the third respondent is directed to consider the same on merits and in accordance with law and register the same, if it is otherwise in order and intimate to the petitioner. The said exercise shall be completed within a period of four weeks from the date of receipt of Sale Certificate.

8. With the above directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

rsi

To

1. Authorised Officer/Chief Manager,
Bank of India,
(Cathedral Road Branch),
Garuda Building,
46, Cathedral Road,
Chennai.

2. The Inspector General,
The Inspector General & Registration,
100 Santhome High Road,
Mylapore, Chennai.

3. The Sub-Registrar,
O/o. The Sub-Registrar - Thiruvotriyur,
21/8, Market Street, Kaladipet,
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5. M/s. Dhinakaran Medical Agencies,
Proprietor Dhinakaran,
No. 27B, Madhavaram High Road,
Sembium, Chennai - 11.

+1cc to Mr. S. Sathiyarayanan, Advocate sr.13058

+1cc to Mr. S. N. Kirubanandam, Advocate sr.12999

+1cc to Government Pleader sr.no.13468

W.P.No.39283 of 2016

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nr 19/03/2019

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