



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 28.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.4007 of 2019

and

W.M.P (MD) .No.3096 of 2019

State Bank of India,
rep. by its Chief Manager,
Stressed Asset Recovery Branch,
8, Dr.Ambedkar Road,
Madurai-625 020.

... Petitioner

Vs

The Sub Registrar,
Sub Registrar Office,
Melakarur,
Karur District.

... Respondent

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the orders passed by respondent in RFL/மேலக்கருர்/3/2019 dated 14.02.2019 and quash the same as devoid of merits and consequently direct the respondent to register the sale certificate issued by the petitioner dated 05.12.2018 within the time stipulated by this Court.

For Petitioner : Mr.Ananth C.Rajesh
For Respondent : Mr.M.Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The writ petitioner is a Nationalized Bank. It advanced a sum of Rs.2,75,00,000/- (Rupees Two Crore and Seventy Five Lakhs only) to a Firm, by name, M/s.J.T.Knitts. One V.K.Subramani and his wife namely, Vijayalakshmi had mortgaged their property in favour of the writ petitioner Bank for securing the said transaction. The borrower did not service the loan account properly. On account of their default, the loan account got classified as non-performing asset. Therefore, the petitioner initiated proceedings under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI) against the secured asset. The secured asset was sold through private treaty and it was purchased by one Karthikeyan and three others for consideration of Rs.92,00,000/- (Rupees Ninety Two Lakhs only). The Bank issued sale certificate in their favour on 05.12.2018.



3. The sale certificate was presented before the respondent for registration. The respondent by order dated 14.02.2019 declined to register the sale certificate on the ground that the said property has already come under attachment in I.A.No.22 of 2014 in O.S.No.34 of 2013 on the file of the Principal District Judge, Karur. The said order is under challenge in this writ petition.

4. The learned Government Advocate representing the respondent stated that the respondent is not in a position to register the sale certificate in view of the attachment order passed by the Civil Court.

5. The issue on hand is no longer *res-integra*. As rightly pointed out by the learned counsel appearing for the petitioner, in a catena of decisions this Court has held that there can be no bar for registering the sale certificate in the case of attachment order passed by the Civil Court. One such order is enclosed at page No.25 of the typed set of papers vide order dated 24.02.2015 in W.P.No.31061 of 2012. It was held that the Bank being a secured creditor is entitled to exercise their power under the SARFAESI Act and execute the sale certificate in favour of the purchaser and that the registration cannot be refused by registering authority on the ground that an order of attachment has been obtained in respect of the property in question.

7. Respectfully following the aforesaid order, I set aside the order impugned in this writ petition. The respondent is directed to register the sale certificate dated 05.12.2018 issued by the writ petitioner, without any delay.

8. The Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

The Sub Registrar,
Sub Registrar Office,
Melakarur,
Karur District.

+1cc to Mr.Ananth C.Rajesh, Advocate, SR.No.50611

+1cc to Special Government Pleader, SR.No.50986

W.P. (MD) No.4007 of 2019

SP/26.03.2019/ 2P/4C