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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.03.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD) No.5522 of 2019

and

W.M.P. (MD) No.4377 of 2019

Asset Reconstruction Company India Ltd., (ARCIL)

Rep. By its

Chief Manager (Legal),

having office at

No.1G, 1st Floor, Century Plaza,

Door Nos.560 and 562,

Anna Salai,

Teynampet,

Chennai-18.

... Petitioner

Vs

1.The Inspector General of Registration,

Santhome High Road,

Chennai-28.

2.The Joint Sub Registrar-I,

Kanniyakumari @ Nagercoil,

Integrated Complex of Registration Department,

S.L.B School South Road,

Nagercoil-1.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order of refusal check slip No.RFL/Kanyakumari Joint 1/12/2018, dated 17.12.2018 issued by the second respondent and quash the same and consequently, direct the second respondent to register the sale certificate dated 07.12.2018 issued by the petitioner's company in favour of M/s."Sagaya Kiltas".

For Petitioner : Mr.D.Sadiq Raja
for Mr.Palaramasamy

For Respondents : Mr.M.Murugan
Government Advocate

ORDER

Heard the learned counsel on either side.

2.The petitioner is a securitization company registered with the Reserve Bank of India under Section 3 of the SARFAESI Act. They sold an asset acquired from the Dewan Housing Finance Company Limited through public auction held on 30.10.2018 to M/s.Sagaya



Kiltas and also issued a sale certificate dated 07.12.2018. The said sale certificate was presented to the second respondent for registration on 17.12.2018. The second respondent declined to receive the document and returned the same on the ground that an attachment order has been passed in respect of the said property by some Court. In the endorsement returning the document, further details have not been set out. Challenging the aforesaid stand taken by the second respondent, this writ petition has been filed.

3.The only question that arises for consideration is whether the registering authority can decline to register the sale certificate presented by the securitization company on the ground that the property that is subject matter of the sale certificate is under attachment. The issue is no longer *res integra*.

4.The learned counsel appearing for the writ petitioner points out that a learned judge of this Court in the decision reported in 2013 (2) CTC 714 held that sale of the property pending an order of attachment is void only as against the claims enforceable under the said order of attachment and not in respect of other claims. Therefore, the sale of the property which is under attachment cannot be characterized as illegal. The said decision clearly applies to the case on hand.

5.Therefore, the order impugned in this writ petition is quashed. The second respondent is directed to register the petition mentioned sale certificate and receive the document subject to the fulfillment of other formalities. The writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS II)

// True Copy //

Sub Assistant Registrar (CS)

To

1.The Inspector General of Registration,
Santhome High Road,
Chennai-28.

2.The Joint Sub Registrar-I,
Kanniyakumari @ Nagercoil,
Integrated Complex of Registration Department,
S.L.B School South Road,
Nagercoil-1.



+2cc to Mr.PALA RAMASAMY,Advocate, SR.No. 52801,53117
+1cc to M/s.Special Government Pleader,SR.No. 53062

W.P. (MD)No.5522 of 2019
and

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