



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.15456 of 2019

and

W.M.P (MD) .No.12098 of 2019

1.Kumaran @ Nainar Kumar

2.Paulraj

... Writ Petitioners

-Vs-

1.The District Registrar,
Marthandam,
Kuzhithurai,
Kanyakumari-629 163.

2.The Joint Sub Registrar,
Kanyakumari District.

3.The ICICI Bank,
ICICI Regional Tower,
24 Suit Property Arihant Insight,
2nd Floor, East Wing DSMG,
Ambattur Industrial Estate,
Ambattur, Chennai-600 058.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to register the sale certificate dated 11.06.2018 issued by the third respondent in favour of the petitioners.

For Petitioner : Mrs.J.Maria Roseline

For Respondents : Mr.M.Murugan (for R1 & R2)
Government Advocate
Mr.Vignesh
for Mr.Pala Ramasamy for R3

ORDER

The prayer in this writ petition is for a Writ of Mandamus, to direct the second respondent to register the sale certificate dated 11.06.2018 issued by the third respondent in favour of the petitioners.



2. Heard Mrs.J.Maria Roseline, learned counsel appearing for the petitioners, Mr.M.Murugan, learned Government Advocate appearing for the respondents 1 and 2 and Mr.Vignesh, learned counsel appearing for the third respondent.

3. By consent of both parties, this writ petition is taken up for final hearing at the admission stage itself.

4. The petitioners seem to have submitted a certificate issued by the third respondent Bank in favour of the petitioners, dated 11.06.2018 for registration. However, the second respondent seems to have not accepted the sale certificate to be registered as desired by the petitioners. Therefore, the petitioners are before this Court with the aforesaid prayer.

5. I have heard Mr.M.Murugan, learned Government Advocate, appearing for the respondents 1 and 2, who would fairly submit that, the sale certificate produced by the petitioner issued by the third respondent Bank can very well be registered and in this regard, the issue has been decided by the Division Bench of this Court in W.P (MD).No.14618 of 2018 dated 18.12.2018, where the learned Government Advocate relied upon the following:-

"5. In the light of the judgment of the Full Bench of this Court reported in **2016 (6) CTC 769** (cited supra) and on a conjoint reading of Section 26-E of the SARFAESI Act and Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, there cannot be any doubt that the rights of a secured creditor to realise the debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority, inasmuch as Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, was introduced with a "notwithstanding" clause and it has also come into force from 01.09.2016.

6. In such view of the matter, we are of the opinion that the order of attachment before judgment cannot be a bar for the first respondent to register the sale certificate in respect of the property in question and hence, there cannot be any impediment for the first respondent to register the sale certificate dated 20.03.2018 issued in favour of the fifth respondent. "

6. By relying upon the said judgment, the learned Government Advocate would fairly submit that, the sale certificate dated 11.06.2018 issued by the third respondent to the petitioner can be registered by the second respondent and to that effect a direction can be given.



7. Having regard to the said submission made by the learned Government Advocate appearing for the respondents, this Court is inclined to dispose of this writ petition with the following direction:-

"that the second respondent is hereby directed to register the sale certificate dated 11.06.2018 issued by the third respondent in favour of the petitioner, as requested by the petitioner, by adopting the usual formalities and needful shall be done within a period of two weeks from the date of receipt of a copy of this order."

No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The District Registrar,
Marthandam,
Kuzhithurai,
Kanyakumari-629 163.

2. The Joint Sub Registrar,
Kanyakumari District.

+1 CC to M/s. SPL GP (SR-75012[F] dated 12/07/2019)

+1 CC to M/s. PALA. RAMASAMY, Advocate (SR-75146[F] dated 12/07/2019)

+1 CC to M/s. J. MARIA ROSELINE, Advocate (SR-74710[F] dated 11/07/2019)

W.P. (MD) No. 15456 of 2019
11.07.2019

KK/SAR/21.08.2019/3P-6C/