

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 03.11.2020

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MRS. JUSTICE R.HEMALATHA

WP.No.15531/2020

R.Devi ... Petitioner
Versus

Axis Bank Limited
rep.by its Authorized Officer
RLP Chennai,
Axis Bank RAC ARCOT Plaza
Old No.38, New No.165, Arcot Road
Kodambakkam, Chennai 600024. ... Respondent

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondent Bank to accept the balance sale consideration of Rs.16,00,000/- and issue the Certificate of Sale in favour of the petitioner.

For Petitioner : Mr.M.Suresh

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.]

(1)By consent, the writ petition is taken up for final disposal and is disposed of by this order.

(2)The petitioner was declared as a successful bidder in the Tender-cum-Auction conducted by the respondent-Bank on 17.03.2020 relating to the landed property in E-18, Block TS.No.35/1 [Part of Old TS.No.35], Manager Murugesan Street, Arni Town, Tiruvannamalai District. The offer of the petitioner in respect of the said property for a sum of Rs.39,20,000/- has been accepted by the respondent-Bank and the petitioner has also paid a sum of Rs.23,20,000/- on different dates and a sum of Rs.16,00,000/- was yet to be paid and in this regard, the respondent-Bank has also sent a communication dated 11.06.2020 to the petitioner and the petitioner, in response to the said communication, has sent a reply dated

12.06.2020 stating among other things that after purchasing of the property, he caused verification of the encumbrance and found that the property which was sold to him through public auction, was the subject matter of mortgage created by one Srinivasan and as per the entries in the Encumbrance Certificate, the mortgage has not been discharged and therefore, the petitioner requested the respondent-Bank to clear the said encumbrance of the year 1983 and do the needful. The respondent-Bank, sent a reply dated 06.07.2020 to the petitioner, stating among other things that the mortgaged property relates back to the year 1983 and drawing the attention of the petitioner to the well settled position of law that any mortgage, unless renewed, is valid only for 12 years and since 37 years had elapsed, the said mortgage has become unenforceable and also pointed out that all the original Deed pertain to the said property are available with them.

- (3) The learned counsel for the petitioner would submit that in the light of the subsisting encumbrance, there is a cloud over the title in respect of the property which was the subject matter of auction by the respondent-Bank and prays for appropriate direction, directing the respondent-Bank to clear the said encumbrance and hand over the possession of the property along with the original title deeds.
- (4) This Court has considered the arguments advanced by the learned counsel for the petitioner and also perused the materials placed before it.
- (5) The respondent-Bank, in response to the communication of the petitioner dated 12.06.2020, had sent a reply dated 06.07.2020 and made it clear, the legal position.
- (6) In the light of the above facts and circumstances, it is open to the petitioner to act on the communication of the respondent-Bank dated 06.07.2020.
- (7) The learned counsel for the petitioner, on instructions, would submit that the petitioner will clear the balance amount of Rs.16,00,000/- as pointed out in the communication of the respondent-Bank dated 11.06.2020 within a period of two weeks from the date of receipt of a copy of this order.
- (8) The respondent-Bank, upon receipt of the balance consideration, shall act on their communication dated 06.07.2020. It is also made clear that in the event of the petitioner facing any dispute or litigation in respect of the earlier mortgage pointed out by her in her representations

dated 12.06.2020, she is always at liberty to approach the respondent-Bank as well as avail other remedies available to her under law.

(9)The writ petition stands disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VI)

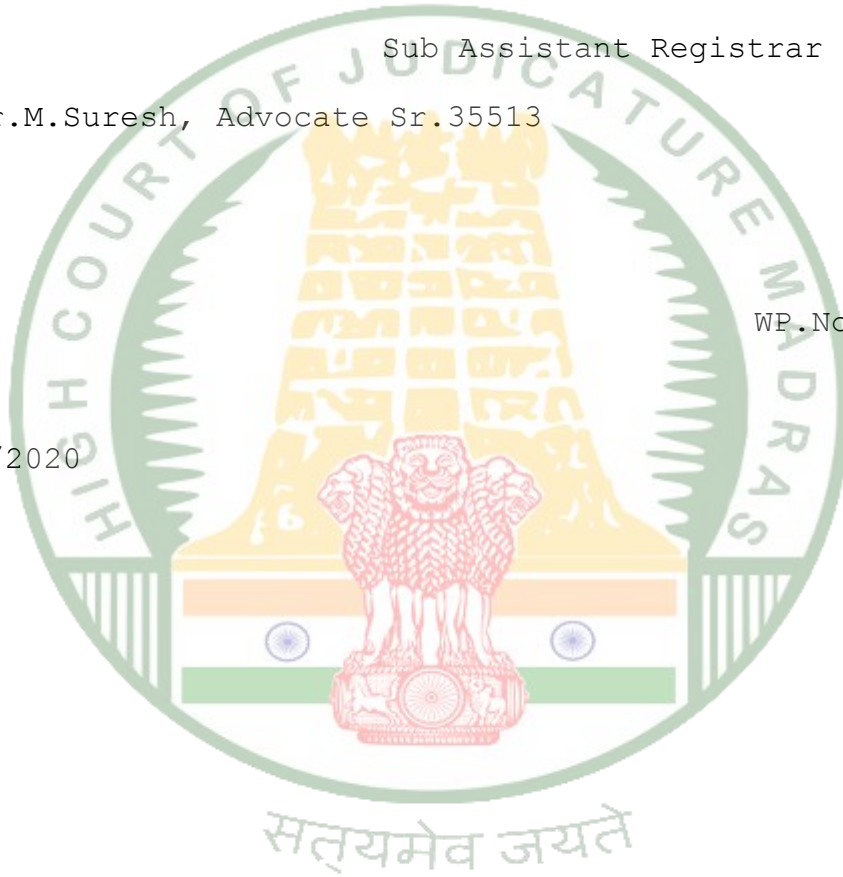
//True Copy//

Sub Assistant Registrar

+1cc to Mr.M.Suresh, Advocate Sr.35513

WP.No.15531/2020

rgn[co]
srg 11/12/2020



WEB COPY