



IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 01.03.2021

CORAM

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THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

W.P. No. 7567 of 2018
and W.M.P. No.9455 of 2018

R.Tamilselvan

.. Petitioner

Vs.

1.The District Registrar (Administration),
Registration Department,
Dharmapuri Town,
Dharmapuri Taluk,
Dharmapuri District.

2.The Sub-Registrar,
Registration Department,
Harur Sub-Registration Office,
Dharmapuri District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus directing the respondents to consider the representation of the petitioner dated 20.03.2018 in accordance with law and directing the second respondent to register the fresh sale certificate No.23/2011 (DRC.8/2002) dated 21.12.2011 issued by the Tribunal in respect of property at Moppiripatti Village, Moppiripatti Panchayat in S.No.8/4 and extent of 0.47 Acres and under S.No.8/7 an extent of 0.56 Acre, in S.No.8/8 an extent of 0.10 acre and in S.No.10/1 an extent of 1.08 Acres out of total extent of 2.21 Acres of Punja land within the Registration Sub-District of Harur and Registration District of Dharmapuri to secure the ends of justice.

For Petitioner : Mr. K.Nagarajan

For Respondents : Mr. P.P.Purushothaman
Government Advocate

O R D E R

This writ petition is filed for issuing a writ of mandamus directing the respondents to consider the representation of the petitioner dated 20.03.2018 in accordance with law.

2. Brief facts that are necessary for the disposal of this writ petition are as follows:

The petitioner is an auction purchaser who purchased the property which was put to public auction after the issuance of recovery certificate by M/s. Indian Bank as against the

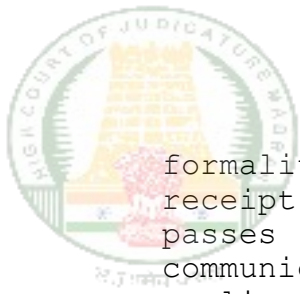


borrower M/s. Everest Marine Products and five others. The auction took place on 12.12.2003 and the sale certificate was issued to the petitioner on 20.01.2004 by proceedings vide reference DRC No.8/2002. It is the case of the petitioner that due to some technical reasons a fresh sale certificate was also obtained on 13.11.2011, after getting an order in O.A. No.490 of 2007. Thereafter, the petitioner submitted a representation to the second respondent on 16.06.2017, to register the fresh sale certificate dated 13.11.2011. Stating that the petitioner submitted several reminders and that the respondent refused to register the sale certificate without assigning any reasons, the petitioner has approached this Court by filing this Writ Petition.

3. This Court, after recording facts, directed the petitioner to produce the two original documents before the second respondent on or before 31.07.2019. It was further directed that the documents shall be considered by the second respondent and a report of the auction shall be filed during next hearing.

4. The grievance of the petitioner as stated by the petitioner's counsel is that the parent documents in relation to the property purchased by the petitioner through Court are not available to the petitioner as the same must be held by the original owner M/s. Everest Marine Products. This Court cannot readily accept the submission of the learned counsel for the petitioner for a simple reason that the bank is expected to have all original documents when the mortgage was created by executing a memorandum of depositing of title deeds. Be that as it may, this Court by an earlier order has directed the petitioner to produce the two original documents mentioned in the communication of the petitioner dated 20.03.2018. The question is, whether the petitioner can be compelled to produce the original documents which were pledged by the bank at the time of creating mortgage. This Court cannot simply answer without reference to the legal obligations and circumstances under which the mortgagor and mortgagee are placed. However the petitioner has admitted before this Court to produce the two original documents mentioned in the representation of the petitioner. Hence this Court cannot dispense with the production of those originals as per the direction of this Court. Having regard to the fact that the sale certificate was issued in the year 2011 and the petitioner submitted the sale certificate only in the year 2018, this Court is inclined to dispose of the writ petition in the following lines:

"Without expressing any opinion on the merits of the petitioner's representation or the petitioner's case as pleaded in the affidavit filed in support of this writ petition, this Court directs the second respondent to consider the representation of the petitioner and pass appropriate orders on merits and in accordance with law, if necessary by registering the sale certificate by following usual



formalities, within a period of eight weeks from the date of receipt of a copy of this order. If the second respondent passes an order against the petitioner, the same shall be communicated within a reasonable time. While considering the application of the petitioner, the respondents shall strictly adhere to the provisions of law and the norms before registering the sale certificate."

5. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS III)

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Sub Assistant Registrar

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To

1.The District Registrar (Administration),
Registration Department,
Dharmapuri Town,
Dharmapuri Taluk,
Dharmapuri District.

2.The Sub-Registrar,
Registration Department,
Harur Sub-Registration Office,
Dharmapuri District.

+1 cc to Government Pleader Sr.No. 12784
+2ccs to Mr.K.Nagarajan, Advocate SR.No.12518

W.P. No. 7567 of 2018

DCH(CO)
B.VC(15.07.2021)