



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.06.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.No.6224 of 2021

M/s.Phoenix ARC Private Limited,
Dani Corporate Part,
rep. By its Authorised representative
Mr.Sailesh Iyengar

... Petitioner

Vs.

1. The Sub-Registrar,
Kangeyam Road,
Ponmuthu Nagar,
Nallur, Thiruppur,
T.N. - 641 606.

2. Mr.Manikandan,
S/o. R.Rajendran

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st Respondent to consider the application dated 11.02.2021 filed for permitting the petitioner to register the sale certificate dated 05.02.2021 issued in favour of the 2nd respondent or in the event of submission and any other and further reliefs.

For Petitioner : Mr.V.Balasubramani
For Respondent : Mr.Yogesh Kannadasan,
Government Advocate for R1

O R D E R

(The case has been heard through video conference)

The Writ Petition has been filed seeking a direction directing the 1st respondent to consider the application dated 11.02.2021 filed for permitting the petitioner to register the sale certificate dated 05.02.2021 issued in favour of 2nd respondent.

2. The grievance of petitioner is that, the petitioner company is a registered Securitisation and Asset Reconstruction company. Earlier, they have brought the property comprised in



Survey No. 131/3, situated at Veerapandi Village, Murugambampalayam Panchayat Board, Nallur Thiruppur District for sale under the SARFAESI Act, in which the 2nd respondent was a successful bidder, he has remitted entire sale consideration and a sale certificate was also issued to him on 27.01.2021. Thereafter, the petitioner and the 2nd respondent, who was a highest bidder have presented the same before 1st respondent for registration on 11.02.2021. But, the 1st respondent Sub-Registrar had refused to register the same on the ground that some third party had filed a suit against original borrower and also obtained an order of attachment against the property. In the said circumstances, the sale certificate could not be registered. Hence, the present Writ Petition has been filed by the petitioner with the above said prayer.

3. Mr. Yogesh Kannadasan, learned Government Advocate appearing for 1st respondent, on instructions, would submit that the 1st respondent did not receive any sale certificate for registration and if the sale certificate is produced, it would be considered by the 1st respondent in accordance with law.

4. Mr.V.Balasubramani, learned counsel appearing for petitioner would submit that, the petitioner has already submitted a sale certificate, but, 1st respondent has orally refused to register the same. He would also submit that the petitioner is ready and willing to submit sale certificate within a period of two weeks from the date of receipt of copy of this order. He would further submit that the 1st respondent cannot refuse to register sale certificate on the ground that, an order of attachment has been passed in respect of property and this Court in number of judgments has held that the order of attachment is not a bar for registering sale certificate.

5. I have considered rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocate and perused the records.

6. Considering the above facts and circumstances, the petitioner is directed to submit sale certificate before the 1st respondent Sub-Registrar within a period of two weeks from the date of receipt of copy of this order. On receipt of sale certificate, the 1st respondent is directed to consider the same and register it, if the sale certificate is found to be in order. It is also made clear that the 1st respondent Sub-Registrar cannot refuse to register sale certificate on the ground that the property has been attached by a civil court, as this Court in number of cases has clearly held that, the order of attachment is not a bar for registering the sale certificate.



7. In the result, this Writ Petition stands disposed of with the above direction. No costs.

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s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

rpp
To

Sub-Registrar,
Kangayam Road, Ponmuthu Nagar,
Nallur, Thiruppur, T.N. - 641 606

+1 Cc to Mr.V.Balasubramani, Advocate sr 30068.
+1 CC to The Government Pleader sr 30795

W.P.No.6224 of 2021

RSV(CO)
SP(19/07/2021)