

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED 13.05.2021

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN
AND
THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY
W.P.No.11723/2021 & WMP.Nos.12482 & 12484 /2021
[Video Conferencing]

The Authorised Officer,
Tamilnad Mercantile Bank Ltd.,
Dr.Nanjappa Road Branch,
364, Dr.Nanjappa Road,
Coimbatore - 641 018.

... Petitioner

Versus

1.The Sub Registrar
Kinathukadavu, Coimbatore District.

2.NDR Distribution Centers Private Limited
Represented by its Authorised Signatory Mr.N.Srinivasan,
No.54, 'B' Block, 102, Vinayaka Plastic Street,
Pallavan Nagar, Maduravoyal,
Chennai - 600 095.

.. Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records relating to the order passed by the 1st Respondent in Na.Ka.No.78 of 2021 dated 29.04.2021 quash the same and direct the 1st respondent to register the Sale Certificate/Deed in respect of the Schedule mentioned properties in favour the 2nd Respondent consequent to his successful bidding in the Public Auction conducted on 26.04.2021 by the petitioner subject to fulfilment of the terms and conditions of auction notification within a specified time frame.

For Petitioner : Mr.V.Chandrasekaran
For R1 : Mrs.A.Srijayanthi,
Special Government Pleader.
For R2 : Mr.S.Vignesh

ORDER

(1) Heard the submissions of the learned counsel for the petitioner ; Mrs.A.Srijayanthi, learned Special Government Pleader accepting notice on behalf of the 1st respondent and Mr.S.Vignesh, learned Standing counsel

- accepting notice on behalf of the 2nd respondent.
- (2) The petitioner is the Authorised Officer of the Tamil Nadu Mercantile Bank Limited.
 - (3) The present writ petition has been filed in the nature of a certiorarified mandamus, calling for the records of the 1st respondent/Sub Registrar, Kinathukadavu in Coimbatore District, in Na.Ka.No.78/2021 dated 29.04.2021 and to interfere with the same.
 - (4) It is stated that the petitioner herein, after following due process, had brought an auction of the land measuring 0.74 acres, which has been mortgaged in favour of the petitioner by due process and it has been mentioned that necessary provisions under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, had been complied with and requirements which are stipulated, had been followed. Notices had been issued and thereafter, finally, the 2nd respondent / NDR Distribution Centre Private Limited, had come forward to purchase the said property for a total value of Rs.17 Crores. 25% of the bid amount has also been deposited as contemplated among the terms in the auction. There was an attachment in the Encumbrance Certificate showing attachment by the Sub Court, Muvattupuzha in Kerala in IA.No.390/2019 in OS.No.21/2019 and the said Attachment Order was dated 25.06.2019. This has also been informed to the 1st respondent. Holding that as a bar, the 1st respondent had refused registration of the Deed, conveying the property in favour of the 2nd respondent.
 - (5) The learned counsel for the petitioner relies on a string of judgments passed by this Court in similar matters.
 - (6) We would draw instructions from the judgment of the Full Bench of this Court in a batch of writ petitions in WP.No.2675/2008 batch - The Assistant Commissioner [CT], Anna Salai, III Assessment Circle V. The Indian Overseas Bank and Others, wherein the Full Bench of this Court had directed, notwithstanding such an encumbrance, an obligation is cast on the Sub Registrar to register the document irrespective of any other aspects, but only to examine whether the document has been properly stamped and whether it is a document for registration and if those conditions are satisfied, then the Sub Registrar should register the document and thereafter, objections or any other aspects can be examined.
 - (7) Placing reliance on the said judgment, which had been consistently followed by Coordinate Benches of this Court, the order complained of / impugned herein, dated 27.04.2021 is set aside and the 1st respondent is directed to act in accordance with law and in accordance with the principles laid down by this Court.

(8) The writ petition stands allowed accordingly. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(co)

//True Copy//

Sub Assistant Registrar

AP

To
The Sub Registrar
Kinathukadavu, Coimbatore District.

+1 cc to Government Pleader Sr.No. 27243

W.P.No.11723/2021

A.SK(19.05.2021)



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