



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM:

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.NO.22941 OF 2021

R. Kalaiselvan

... Petitioner

Versus

1. The Chief Manager,
State Bank of India,
Namakkal Branch,
Namakkal.
2. The Sub-Registrar,
Suramangalam,
Bodinayakkanpatty Village,
Salem West, Salem.

... Respondents

PRAYER:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records of the 2nd respondent herein vide refusal check slip with refusal number RFL/Suramangalam2/2019 dated 19.07.2019 quash the same and consequently, to direct the 2nd respondent to register the sale certificate dated 09.05.2019 issued by the 1st respondent in favour of the petitioner.

For Petitioner : Mr. K.Sathish Kumar

For Respondents : Mr. Yogesh Kannadasan
Government Advocate

ORDER

Heard Mr.K. Sathish Kumar, learned counsel appearing for the petitioner and Mr. Yogesh Kannadasan learned Government Advocate, takes notice on behalf of the respondents, by consent both parties, this writ petition taken up for final disposal at the admission stage itself.



2. The petitioner seeks for the issuance of a writ of certiorarified mandamus to quash the impugned proceedings dated 19.07.2019 passed by the second respondent refusing to entertain the registration of the Sale Certificate executed in favour of the petitioner by the first respondent pursuant to the auction initiated under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [SARFAESI Act] on the ground that there is an attachment by the Civil Court prior to the Sale Certificate being executed in favour of the petitioner.

3. The issue raised in this writ petition is squarely covered by the earlier decision passed by this Court wherein an identical issue was considered. At this stage, it will be useful to refer the operative portion of the said order passed by this Court dated 01.09.2014 in W.P.(MD) No.14388 of 2014:

"4. Section 71 of the Registration Act, 1908 deals with reasons for refusal to register which has to be recorded. In terms of Sub Section (1) of Section 71, every Sub Registrar refusing to register a document, except on the ground that the property to which it relates is not situate within his Sub District, shall make an order of refusal and record his reasons for such order in his Book No.2 and endorse the words 'registration refused' on the document, and on application made by any person executing or claiming under the document, shall, without payment and unnecessary delay, give him a copy of the reasons so recorded. In terms of Sub Section (2), no registering officer shall accept for registration a document so endorsed unless and until, under the provisions hereinafter contained, the document is directed to be registered.

5. In such circumstances, merely because there is an order of attachment passed by a Civil Court, the same cannot be a ground to refuse to register the Memorandum of Deposit of Title Deeds. If any deposit of title deeds is created in respect of the said property pursuant to the right acquired by the petitioner, vide Settlement deed, dated 04.07.2011, it is always subject to further orders to be passed by the Civil Court. The petitioner's case is that she acquired title by way of settlement deed dated 04.07.2011, much prior to the order of attachment. Further, the learned counsel appearing for the petitioner



registration and release of the Sale Certificate will not in any manner affect any order of attachment. Consequently, W.M.P.Nos.24154 and 24156 of 2021 are also closed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

sp/msm

To

1. The Chief Manager,
State Bank of India,
Namakkal Branch,
Namakkal.
2. The Sub-Registrar,
Suramangalam,
Bodinayakkanpatty Village,
Salem West, Salem.

+1cc to the Government Pleader, S.R.No.55877

W.P.No.22941 of 2021

RGN(CO)
PM/02/12/2021