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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.25893 of 2021

M/s.Akshobhaya Steels Private Limited,
Represented by its Director Mr.Manigandan,
S/o.K.K.Subramani,
No.25, Ezhil Nagar,
Soorapattur, Puzhal Post,
Chennai - 600 061.

...Petitioner

Vs

The Sub Registrar,
Sub Registrar Office,
Ponneri,
Chennai - 600 067.

...Respondent

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to complete the registration of the pending Document No.9/Ponneri/111/2018, dated 06.06.2018 and to deliver the same to the petitioner within a time frame.

For Petitioner : Mrs.Chithra Sampath
Senior Counsel
for M/s.Jaya Chithra

For Respondent : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This writ petition is filed to issue a Writ of Mandamus, to direct the respondent to complete the registration of the pending Document No.9/Ponneri/111/2018, dated 06.06.2018 and to deliver the same to the petitioner within a time frame.



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2. The subject property was mortgaged with M/s.S.L.O Industries Private Limited for a sum of Rs.3,25,00,000/- under the Deed of Mortgage dated 11.07.2014, registered vide Document No.6725 of 2014 on the file of the Sub Registrar Office, Ponneri. In order to enforce the mortgage, the Mortgagor had authorised the Mortgagee to realise security in enforcement of the Mortgage and towards that end, the Mortgagor had executed a Power of Attorney in favour of one Pratap Kumar Rakesh, under the Deed of General Power of Attorney dated 11.07.2014, registered vide Document No.6726 of 2014. Since the Mortgagor had failed to discharge the dues, the Mortgagee invoking the power of sale in them, had realised the security by selling the subject property to the petitioner. Accordingly, the petitioner had paid the entire sale consideration to the Mortgagee and presented the sale deed for registration on 06.06.2018 before the respondent. However, the respondent has kept the document pending, vide Document No.P/Ponneri/111/2018 for more than three years for the reason that there appears to be an encumbrance over the property in question and an order of attachment before the judgment was also passed by this Court in Appln No.3338 of 2017, dated 29.08.2017.

3. The learned Senior Counsel appearing for the petitioner submitted that the attachment creates no charge or lien upon the attached property and it does not bar private alienations too. The subject property was originally mortgaged only to M/s.S.L.O Industries, under a registered deed of Mortgage Deed. The said Mortgagee is the secured creditor under the contract and the Mortgagee, invoking the power of sale in them, had realised the security by selling it to the petitioner. Therefore, the order of attachment is no way a bar to complete the registration of the sale deed dated 06.06.2018. In support of her contentions, she relied upon the judgment of this Court reported in (2013) 2 CTC 714 (K.D.P. Properties Private Limited -vs- The Sub Registrar and another) and this Court held that the sale of the property attached, cannot be construed as illegal sale. However, if the Bank exercises its right as against the property, the petitioner cannot raise any objection, because the sale of the vendor in favour of the petitioner is void in respect of the order of attachment obtained by the Banker.

4. In view of the above submissions made, the respondent is directed to pass orders with regard to either registration or rejection of the said document on the basis of the above judgement of this Court reported in (2013) 2 CTC 714 (K.D.P. Properties Private Limited -vs- The Sub Registrar and another), within a period of four weeks from the date of receipt of a copy of this order.



5. With the above direction, this writ petition is disposed of. No costs.

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Sd/-

Assistant Registrar (CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Sub Registrar Office,
Ponneri,
Chennai - 600 067.

+1cc to M/s.C.Jaya Chithra, Advocate SR. No.63897
+1cc to Government Pleader SR. No.64881

W.P.No.25893 of 2021

PVS (CO)
PR (22/12/2021)