



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.04.2021

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P (MD)No.6432 of 2021

The Authrized Officer,
Axis Bank Limited,
1st Floor, Pattu Arcade,
No.61/4B, Ram Nagar,
Bye-Pass Road,
Madurai-625 010.

...Petitioner

Vs.

1.The Sub Registrar,
K.Sathanur,
Tiruchirapalli District.

2.The District Registrar,
Tiruchirapalli District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in RFL/Keezhasathanur/4/2021 dated 05.02.2021, quash the same as illegal and to direct the 1st respondent to register the sale certificate dated 05.02.2021 issued by the petitioner within a time frame to be fixed by this Court.

For Petitioner : Mr.M.Senthil Kumar
For Respondents : Mr.K.Sathiyasingh
Additional Government Pleader

ORDER

This writ petition has been filed challenging the impugned refusal Check Slip issued by the first respondent dated 05.02.2021 wherein the first respondent has refused to register the sale certificate dated 05.02.2021 issued by the petitioner.

2. The petitioner Bank had extended housing loan to one Mr.C.Rajesh Kannan in the year 2013. An equitable mortgage was created on the property by virtue of memorandum of entry made on 13.03.2013. The said Mr.C.Rajesh Kannan committed default in the repayment of the housing loan and hence proceedings were initiated against him under the SARFAESI Act.

3. The subject property ultimately came to be brought for auction sale and one Masthan Ali was declared as the successful bidder in the public auction conducted on 29.12.2020. The sale was



confirmed in his favour and a sale certificate dated 04.02.2021 was also executed in his favour.

4. The sale certificate executed by the petitioner was presented for registration before the first respondent. The first respondent refused to register the sale certificate on the ground that the equitable mortgage created by deposit of title deeds was not registered. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.M.Senthil Kumar, learned counsel appearing on behalf of the petitioner and Mr.K.Sathiyasingh, learned Additional Government Pleader appearing on behalf of the respondents.

6. It is seen from the records that the equitable mortgage in the present case has been created by physical delivery of the original title deeds pertaining to the subject property on 13.03.2013. What was reduced to writing was only a memorandum of entry that was made acknowledging the equitable mortgage created by the above said Rajesh Kannan. This memorandum of entry is not a compulsorily registrable document.

7. In view of the above, the first respondent ought to have entertained the sale certificate presented by the petitioner Bank and registered the same. The first respondent was not right in refusing to register the sale certificate on the ground that the memorandum of entry made on 13.03.2013 was not registered.

8. In view of the above discussion, the impugned refusal Check Slip issued by the first respondent dated 05.02.2021 is hereby quashed and there shall be a direction to the first respondent to entertain the sale certificate for registration subject to the payment of the necessary stamp duty and the registration charges. The document shall be released after registration.

9. This writ petition is allowed with the above directions. No Costs.

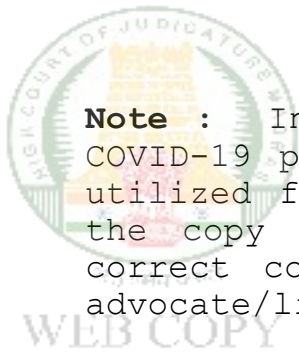
Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Sub Registrar,
K.Sathanur,
Tiruchirapalli District.

2.The District Registrar,
Tiruchirapalli District.

1 CC to M/s.SPL GP (SR-15791[F] dated 15/04/2021

**W.P (MD) No. 6432 of 2021
09.04.2021**

GS (19.05.2021) 3P 4C