



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.01.2021

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.7284 of 2020

and

W.M.P. (MD)Nos.6737 and 6739 of 2020

L.Mahalakshmi

... Petitioner

Vs.

1.The District Registrar (Admin),
I/C. Assistant Inspector General,
171, Palace Road,
Madurai - 625 001.

2.The Joint Sub-Registrar No.IV,
Department of Registration,
Madurai South,
Palanganatham,
Madurai.

3.The Central Bank of India,
Asset Recovery Branch,
No.48/49, Montieth Road,
Egmore, Chennai - 600 008.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorarified Mandamus, to call for the impugned order, dated 11.05.2020, made in Na.Ka.No.96/2020, passed by the second respondent and subsequently, quash the same as illegal and devoid of merits and consequently, direct him to revalidate the payment of Rs.2,93,965/- [Rupees Two Lakhs Ninety Three Thousand Nine Hundred and Sixty Five only] made towards the registration of the Sale Certificate under Ref.ARB/CHEN/2017-18:489, dated 05.02.2018 and ARB:CHEN:2019-20:24, dated 22.04.2019, in respect of the property bearing Plot No.80, measuring an extent of 4 Acres 16 Cents, comprised in New R.S.No.447, Old No.1481, in which, the said Plot No.80, situated at Kennet Nagar, Madakulam Village, Madurai, Madurai District, in favour of the petitioner for subsequent registration to the same property forthwith.

For Petitioner	:	Mr.Sudharsanamanivannan
For R1 and R2	:	Mr.K.Sathiya Singh Additional Government Pleader
For R3	:	Mr.N.Dilipkumar

**ORDER****(Order of the Court was made by M.M.SUNDRESH, J.)**

The petitioner is the auction purchaser from respondent No.3. The property was purchased through E-Auction. After the purchase of the property, the petitioner paid the entire sale consideration. Accordingly, a Sale Certificate was issued on 05.02.2018, followed by a Corrigendum on 22.04.2019. When the petitioner approached respondent No.2 to register the Sale Certificate, it was not done on the premise that there was an encumbrance in existence. Upon being informed of the same, the petitioner approached respondent No.3, who took on his own time in removing the said encumbrance.

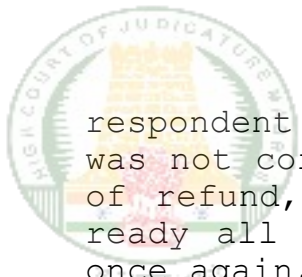
2.After removal of the encumbrance, the petitioner once again approached respondent No.2 for registration. Needless to state that the petitioner even at the first instance paid the entire registration fees. Placing reliance upon the Circular issued by the Inspector General of Registration to all the Sub-Registrars and District Registrars, dated 07.01.2015, the request made by the petitioner for registration was declined, meaning thereby, the petitioner has to make the registration fees once again. Under those circumstances, the petitioner has come forward to file the present Writ Petition challenging the order, dated 11.05.2020.

3.The learned counsel appearing for the petitioner submitted that the Circular, dated 07.01.2015, has been misconstrued by respondent No.2. The said Circular will have to be applied to such type of those cases, where a party presenting a document for registration consciously and wilfully does not proceed further in getting it registered. In the case on hand, it is respondent No.2, who declined registration in view of the encumbrance found. Though there was no encumbrance as such, in view of the objection of respondent No.2, the petitioner accordingly, cleared the same. Thus, the said Circular cannot be put against her.

4.Mr.N.Dilipkumar, learned counsel appearing for respondent No.3 submitted that the case of the petitioner requires to be considered by this Court in the affirmative, more so, when there is no mistake on her part.

5.Mr.K.Sathiya Singh, learned Additional Government Pleader appearing for respondent Nos.1 and 2 submitted that it is mandate of Sections 23 and 25 of the Registration Act, which requires the period of limitation. Therefore, accordingly, the Circular was issued in tune with the same and since the petitioner has not complied with the same, no relief can be granted.

6.As rightly submitted by the learned counsel appearing for the petitioner, there was no encumbrance as such. There was only a mistake with respect to survey number while redeeming the earlier mortgage. Therefore, at the first instance, the refusal of



respondent No.2 in declining to register the Sale Certificate itself was not correct. Be that as it may, we are not dealing with a case of refund, but re-validation. Even otherwise, the petitioner was ready all along and hence, she has not paid the registration fees once again, but only seeks re-validation of the amount paid already. Therefore, there is no issue of refund involved. Perhaps, there may be a case for respondent No.2, if a party after making payment for registration, does not come forward for registration and allowed one year elapsed, in which case, respondent No.2 may be justified in declining the said request by placing reliance upon the said Circular. Therefore, looking from any perspective, the order impugned cannot be sustained in the eye of law. Accordingly, the same stands set aside and consequently, respondent No.2 is directed to register the Sale Certificate along with Corrigendum presented by the petitioner, within a period of four weeks from the date of receipt of a copy of this order, provided the other formalities are complied with. For completion of the above said process, respondent No.2 shall undertake the process of re-validation.

7.This Writ Petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

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 District Registrar (Admin),
I/C. Assistant Inspector General,
171, Palace Road,
Madurai - 625 001.

2.The Joint Sub-Registrar No.IV,
Department of Registration,
Madurai South,
Palanganatham,
Madurai.

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+1 CC to M/s.SUDHARSANA, Advocate (SR-622[F] dated 08/01/2021)

+1 CC to M/s.SPL GP (SR-650[F] dated 08/01/2021)

+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-725[F] dated 08/01/2021)

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