BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 26.03.2021
PRONOUNCED ON : 31.03.2021
CORAM
THE HONOURABLE MR.JUSTICE **V.PARTHIBAN**

W.P(MD) No.11067 of 2020

The South Indian Bank Limited,
represented by its Authorised Officer cum Chief Manager,
Regional Office,
I Floor, YMCA building,
Oppo Astoria Hotels,
Ellis Nagar,
Madurai - 625 016. ... Petitioner

Vs

1.The Sub-Registrar,
Teppakulam Sub-Registrar Office,
Rajaghambeeram, Madurai.

2.M/s.Equitas Small Finance Bank Limited,
(Formerly known as Equitas Finance Limited),
Represented by its Deputy Vice-President Legal
Spencer Plaza,
4th Floor, Phase II, No.769, Anna Salai,
Chennai – 600 002.

3.M/s.Shree Sharavana Traders,
Represented by its Partners,
Singarvel Surlivel,
S/o.Mr.Singaravel,
No.22, Gate Lock Road,
Old Anuppanadi,
Madurai 625 009.

4.Singaravel Surlivel,

5.Siva Singaravel

6.M.Kannan ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certioaraified Mandamus to call for the records in regard to the proceedings dated 26-05-2020 in Na.Ka.No.27/2020 of the 1st Respondent and quash the same and direct the 1st respondent to entertain and admit for registration the conveyance deed of the writ petitioner in favour of the 6th respondent in respect of 64 cents of land (24.00 acres as per patta) comprised in UDR S.No.104/1 (Old S.No.220/1) of Kalikappan bit II Village, Madurai north Taluk, Teppakulam Sub registration district, Madurai District.

For Petitioner	:	Mr.Om.Prakash, Senior Counsel, for Mr.A.R.M.Ramesh,
For R1	:	Mr.V.Anand, Government Advocate
For R2 to R6	:	No appearance

ORDER

The petitioner is a bank represented by its authorised officer cum Chief Manager, having its Regional Office in Madurai. The 4th and 5th respondents are the absolute owners of the property to an extent of 64 cents land comprised in UDR S.No.104/1 (Old S.No.220/1) of Kalikappan bit II Village, Madurai Noth Taluk, Teppakulam Sub-Registration District, Madurai District.

2.The respondents 4 and 5 being partners of the 3rd respondent firm, mortgaged the subject property with the petitioner bank by deposit of their title deeds, pertaining to the subject property, which was duly recorded in a memorandum of deposit of title deeds dated 14.12.2015, registered as document No.4085/2015 as secured creditor for the loan availed by them. Since the loan amount has become Non Performing Asset [NPA], the bank has initiated SARFAESI proceedings, which led to the auction sale of the subject property and the sale was finalised and certificate was also issued to the buyer 6th respondent herein.

3.In the meanwhile, the 2nd respondent claiming to be unsecured creditor of 3rd respondent appeared to have initiated arbitrary proceedings and the interim attachment order was passed on 23.04.2018 by the Arbitrator in respect of the subject property. Thereafter, it appears that the attachment order dated 23.04.2018 has been given effect to by the District Judge under the provisions of Section 17 of the Arbitration and Conciliation Act, 1996 r/w 136 of CrPC. Subsequently, encumbrances have been made by the 1st respondent as reflected in the encumbrance certificate dated 29.11.2018, registered as document No.07/2018 and in view of the encumbrances being found in the revenue records, the sale certificate was refused to be registered by the 1st respondent.

4.The petitioner finding that the 1st respondent was not inclined to register the document on the basis of the order of attachment of the property in pursuance of the arbitrary proceedings, approached this Court in WP.SR.No.51199 of 2019 for quashing the attachment order. However, the writ petition was disposed of on the ground of maintainability holding that the petitioner had appellate remedy under the provision of the Arbitration and Conciliation Act, 1996 and refused to entertain the writ petition on 20.08.2019. Thereafter the petitioner had preferred statutory appeal under Section 37(2)(b) of the Arbitration and Conciliation Act. Subsequently, the petitioner had come know that the interim attachment order dated 23.04.2018 cannot be a bar for entertaining registration of the sale certificate issued by the petitioner bank in favour of the 6th respondent . Therefore, the petitioner is before this Court challenging the order of the 1st respondent dated 26.05.2020. The 1st respondent has rejected the request of the petitioner for registration of the document on the ground that the arbitration proceedings is pending before this Court and also there was an order for interim attachment.

5.Mr.Om.Prakash, learned Senior Counsel appearing for the petitioner would submit that the bank being the secured creditor and the mortgage of the subject property had taken place much prior to the attachment order by the Arbitrator in 2018, the bank has the first charge over the subject property. According to the learned Senior Counsel that there are number of judgments on the legal aspect that the right of secured creditor to the mortgaged property would have precedence over other creditors. There are relevant judgments in similar circumstances, wherein directions were issued to the Sub Registrar to remove any encumbrance of the attachment made in respect of the properties in order to facilitate the registration of documents presented by the secured creditors for registration.

6.The learned Senior Counsel would submit that in this case the admitted facts are that there was a memorandum of deposit of title deeds, which was recorded on 26.08.2015 as registered document and subsequently supplemental memorandum of deposit of title deeds dated 14.12.2015, was registered as document No.4085/2015. Both being securities for the loan amount borrowed by the firm M/s.Shri Saravana Traders. It is not open to the 1st respondent to rely on the subsequent attachment order of the Arbitrator at the instance of the 2nd respondent on 23.04.2018, and refuse to register the sale certificate issued by the Bank to the auction purchaser, the 3rd respondent herein.

7.It also transpired as stated above that after the petitioner had come to know of the arbitration proceedings and the attachment order, an appeal was filed against the interim attachment under Section 37 (2)(b) of the Arbitration Act. However, pending appeal the petitioner was informed that there was no legal impediment for registration of the sale certificate in view of the settled legal position laid down by the Court and therefore, the petitioner has chosen to file this writ petition for the relief.

8.According to the learned Senior Counsel that the decision of the Courts is that the sale certificate issued in respect of the mortgaged property by the bank would have precedence over all other claims and the registering authority cannot refuse to register on the basis of the subsequent encumbrance made against the property. In support of the legal contention, the learned Senior Counsel referred to paragraph No.4 of a decision reported in ***2018 SSC Online Hyd 370*** by the High Court of Adhra Pradesh, which dealt with the issue as under :

> *"4.The common point for consideration in these writ petitions is whether the sale certificates executed by the bank in favour of the auction purchasers can be refused registration by the Registrar under the Registration Act, 1908 on the pretext of an order of attachment before judgment by a civil Court?"*

9.Thereafter, vide a detailed reasoning and also with reference to various other decisions of the Hon'ble Supreme Court of India and other High Courts, the Division Bench of Andhra Pradesh High Court has dealt with the issue extensively in favour of the submission made on behalf of the petitioner herein. Paragraph Nos. 12 to 15 of the judgment are referred to hereunder:

> *"12. The Supreme Court in Hamda Ammal V/s Avadiappa Pathar2, dealt with an identical issue in the light of Order XXXVIII Rules 5, 10 and Section 64 of the CPC, Sections 47 and 49 of the Registration Act, 1908 and also Sections 53 and 54 of the Transfer of Property Act, 1882 and held as follows:*
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> *"2. In order to decide the above controversy we would advert to some relevant provisions. Order XXXVIII Rule 5 CPC which provides the conditions for attachment before judgment reads as under.*
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> *'5(1) Where, at any stage of a suit, the Court is satisfied, by affidavit or otherwise, that the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him,-*
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> *(a) is about to dispose of the whole or any part of his property, or*
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> *(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Court, the Court may direct the defendant, within a time to be fixed by it, either to furnish security, in such sum as may be specified in the order, to produce and place at the disposal of the Court, when required, the said property or the value of the same, or such portion thereof as may be*

sufficient to satisfy, the decree, or to appear and show cause why he should not furnish security.

(2) The plaintiff shall, unless the Court otherwise directs, specify the property required to be attached and the estimated value thereof.

(3) The Court may also in the order direct the conditional attachment of the whole or any portion of the property so specified.

(4) If an order of attachment is made without complying with the provisions of sub-rule (1) of this rule such attachment shall be void.' The above provision itself makes it clear that the attachment before judgment would be made where the court is satisfied that the defendant is about to dispose of the whole or any part of his property or is about to remove the whole or any part of his property form the local limits of the jurisdiction of court with the intention to obstruct or delay the execution of any decree that may be passed against him. Thus this provision would not apply where the sale deed has already been executed by the defendant in favour of a third person. A transaction of sale having already taken place even prior to the institution of a suit cannot be said to have been made with the intention to obstruct or delay the execution of any decree. It would be a different case altogether if a creditor wants to assail such transfer by sale under Section 53 of the Transfer of Property Act, 1882 on the ground of a fraudulent transfer. Such suit would be decided on totally different considerations in accordance with the provisions of Section 53 of the Transfer of Property Act. Order XXXVIII Rule 10 CPC reads as under

'10. Attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.' This provision also makes it clear that attachment before judgment shall not affect the rights, existing prior to the attachment, of persons not parties to the suit.

3. Section 64 CPC prohibits private alienation of property after attachment and reads as under:

'64. Where an attachment has been made, any private transfer or delivery of the property attached or of any interest there in and any payment to the judgment-debtor of any debt, dividend or other monies contrary to such attachment, shall be void as against

all claims enforceable under the attachment. Explanation:- For the purposes of this section, claims enforceable under an attachment include claims for the rateable distribution of assets.' The above provision bans or prohibits a private transfer or delivery of the property attached or of any interest therein contrary to such attachment as void as against all claims enforceable under the attachment. The order of attachment is issued on a prescribed Form No.24 in Appendix E to CPC which prohibits and restrains defendant from transferring or charging the property by sale, gift or otherwise. Thus neither in Section 64 CPC nor in the form prescribed for attachment there is any prohibition for submitting the document of sale for registration. The act of submitting the sale deed for registration which has already been executed prior to an attachment is not an act of transfer which is prohibited under the above provisions.

4. Section 54 of the Act defines sale as "a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised". Thus after the execution of the sale deed with consideration all the ingredients of sale are fulfilled except that in case of tangible immovable property of the value of Rs.100 and upwards it can be made only by registered instrument. Now, if we read Section 47 of the Registration Act, it clearly provides that a registered document shall operate from the time from which it would have commenced to operate if no registration thereof had been required or made and not from the time of its registration. This provision makes it clear that after the registration it will relate back to the date of execution of the sale deed. The act of registration is to be performed by the registering authority. According to Section 23 of the Registration Act a document of the nature of sale deed shall be accepted for registration within four months from the date of its execution. Thus a statutory period of four months has been provided for presenting the sale deed for registration from the date of its execution. In case of dispute regarding the execution of the document an enquiry is permitted under Section 74(a) of the Registration Act and that may also take some time. The legislature being alive to such situations has already provided in Section 47 of the Registration Act that it shall operate from the time from which it would commence to operate if no registration thereof had been required or made and not *from the time of its registration. Thus in our view the vendee gets rights which will be related back on registration from the date of the execution of the sale deed and suchrights are protected under Order XXXVIII Rule 10 CPC read together with Section 47 of the Registration Act."*

13. In similar circumstances, the Kerala High Court in The South Indian Bank Ltd. V/s The Sub Registrar3, considered the question whether a sale certificate is liable to be registered or not in view of the order of attachment before judgment passed by the civil Court and held that the secured creditor is entitled to proceed with the registration and the Registration Authority cannot stall the process of registration under the garb of an order of attachment passed by the civil Court.

14. The preponderance of judicial opinion leads to the irresistible conclusion that the sale of the mortgaged property in favour of the auction purchaser and the sale certificate under the SARFAESI Act in such circumstances is free of all encumbrances. The attachments effected subsequent to the mortgage created in favour of the bank do not affect the rights of the secured creditor over the subject property. Such attachments have no impact on the sale conducted under the Act and the same ceases to have any effect or fall to the ground the moment the same is confirmed in favour of the secured creditor Bank and auction purchaser. Otherwise, those attachments would remain as a permanent taboo prejudicially affecting the marketability and title to the property even though they ceased to have any legal efficacy and thereby it becomes necessary to register the sale certificate.

15. Taking into account all these aspects and reckoning the law in the subject as discussed above,this Court has no hesitation to hold that the secured creditor is entitled to succeed in these writ petitions. The writ petitions are accordingly allowed directing the first respondent in both the writ petitions to register the sale certificates in accordance with the Registration Act. Miscellaneous Petitions pending if any shall stand closed. No order as to costs."

10.The learned Senior Counsel has also referred to the following decisions to strengthen his submission further:

Indian Overseas Bank Vs Sub-Registrar, 2018 SCC Online Mad 5016 and he would particularly refer to the paragraphs Nos. 3 to 7 of the said judgment, which read as under:

> *"3. We have heard the submissions of the learned counsel for the parties and perused the materials available on record.*
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> *4. Similar issue came up for consideration before this Court in* ***W.P.(MD).No.10724 of 2018,*** *dated* ***06.12.2018, Central Bank of India Vs the Joint Sub-Registrar No.1,*** *wherein this Court has held as follows:-*
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> *7. In* ***Assistant Commercial Tax Officer (CT) v. Indian Overseas Bank*** *reported in* ***2016 (6) CTC 769,*** *the Full Bench of this Court has held as under:"... 2. We are of the view that if there was at all any doubt, the same stands resolved by view of the Enforcement of Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, 2016, Section 41 of the sameseeking to introduce Section 31B in the Principal Act,which reads as under:-*
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> *"31B. Notwithstanding anything contained in any other law for the time being in force, the rights of secured creditors to realise secured debts due and payable to them by sale of assets over which security interest is created,shall have priority and shall be paid in priority over all other debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or local authority. Explanation - For the purpose of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."*
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> *3. There is, thus, no doubt that the rights of a secured creditor to realise debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority. This section introduced in the Central Act is with "notwithstanding" clause and has come into force from 01.09.2016.*
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> *4. The law having now come into force, naturally it would govern the rights of the parties in respect of*

even a lis pending.

5. The aforesaid would, thus, answer question (1) in favour of the financial institution, which is a secured creditor having the benefit of the mortgaged property.

6. In so far as question (b) is concerned, the same is stated to relate only to auction sales, which may be carried out in pursuance to the rights exercised by the secured creditor having a mortgage of the property. This aspect is also covered by the introduction of Section 31B, as it includes secured debts due and payable to them by sale of assets over which security interest is created".

7. We, thus, answer the aforesaid reference accordingly."

8. For the sake of convenience, Section 26-E of the SARFAESI Act, is extracted hereunder:

"26E. Notwithstanding anything contained in any other law for the time being in force, after the registration of security interest, the debts due to any secured creditor shall be paid in priority over all other debts and all revenues, taxes, cesses and other rates payable to the Central Government or State Government or local authority.

Explanation.- For the purposes of this section, it is hereby clarified that on or after the commencement of the Insolvency and Bankruptcy Code, 2016, in cases where insolvency or bankruptcy proceedings are pending in respect of secured assets of the borrower, priority to secured creditors in payment of debt shall be subject to the provisions of that Code."

5. In the light of the judgment of the Full Bench of this Court reported in ***2016 (6) CTC 769*** *(cited supra) and on a conjoint reading of Section 26-E of the SARFAESI Act and Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, there cannot be any doubt that the rights of a secured creditor to realise the debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority, inasmuch as Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, was introduced with a "notwithstanding" clause and it has also come into force from 01.09.2016.*

6. In such view of the matter, we are of the opinion that the order of attachment before judgment *cannot be a bar for the first respondent to register the sale certificate in respect of the property in question and hence, there cannot be any impediment for the first respondent to register the sale certificate dated 20.03.2018 issued in favour of the fifth respondent.*

7. Accordingly, this writ petition is allowed and the impugned order passed by the first respondent is quashed and consequently, the first respondent is directed to register the sale certificate dated 20.03.2018 issued by the petitioner bank in favour of the fifth respondent, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Writ Miscellaneous Petitions are closed"

11.The learned Senior Counsel also referred to the latest two decisions of Division Bench of this Court in the cases of (i) ***R.Ramesh Vs The Sub-Registrar, Budalur, SRO, Thanjavur District*** [W.P(MD)No.8407 of 2020, dated 07.01.2021 and (ii) ***Tamil Nadu Merchantile Bank Limited Vs the Joint-I Sub Registrar Office, Madurai and others*** [W.P(MD)Nos.6976 and 1101 of 2021 dated 29.01.2021].

12.As regards the 1st decision is concerned, the learned Senior Counsel would rely on the paragraph Nos.6 to 8 of the decision of the Division Bench of this Court, which are extracted hereunder :

"6.The learned Senior Counsel appearing for the petitioner has placed *reliance upon the order passed by a Division Bench of this Court in* ***Central Bank of India Vs. The Joint Sub-Registrar and others [W.P.(MD) No.10724 of 2018, dated 06.12.2018]*** *reported in* ***MANU/TN/7117/2018,*** *wherein at Paragraphs 9 and 10, it has been held as follows:-*

''9. In the light of the judgment of the Full Bench of this Court reported in ***2016 (6) CTC 769*** *(cited supra) and on a conjoint reading of Section 26-E of the SARFAESI Act and Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, there cannot be any doubt that the rights of a secured creditor to realise the debts due and payable by sale of assets over which security interest is created, would have priority over all debts and Government dues including revenues, taxes, cesses and rates due to the Central Government, State Government or Local Authority, inasmuch as Section 31-B of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, was introduced with a*

''notwithstanding'' clause and it has also come into force from 01.09.2016.

10. In such view of the matter, we are of the opinion that the order of attachment before judgment cannot be a bar for the first respondent to register the sale certificate in respect of the property in question and hence, there cannot be any impediment for the first respondent to register the sale certificate dated 14.03.2018 issued in favour of the tenth respondent.''

7.In such view of the matter, we do not find any need to implead either the borrower or the plaintiff in the suit. The borrower does not have any right in a case of divested property. He has also not questioned the attachment before judgment. Insofar as the plaintiff is concerned, nothing has been discussed in the proceedings about the order obtained for attachment before judgment and he cannot have any grievance over the registration of the Sale Certificate by the petitioner. We are not deciding the inter se rights of the parties, though we have quoted the order of the Division Bench of this Court.

8.In such view of the matter, respondent No.1 is directed to register the Sale Certificate, dated 09.03.2020, executed by respondent No.2 and presented by the petitioner, within a period of four weeks from the date of receipt of a copy of this order, after duly complying with the other requisite formalities" .

13.As far as the latter judgment in W.P(MD)No.6976 of 2020 is concerned, attention of this Court is drawn to paragraph Nos. 8 to 13, which are extracted as follows:

"8. Considering the similar issue, a Division Bench of this Court, in which one of us [Hon'ble Mr.Justice M.M.SUNDRESH] is a party, in a batch of writ petitions in ***W.P.(MD)Nos.8546 of 2020, etc., batch,*** *by order dated 09.09.2020, was pleased to hold that the proceedings under the SARFAESI Act would have primacy, especially in a case where the mortgage in favour of the Bank was earlier. The aforesaid decision was rendered after taking note of the judgment rendered by the Division Bench of the Gujarat High Court in* ***Bank of India v. State of Gujarat*** *[****Manu/GJ/0130/2020****] and a Full Bench judgment of this Court in* ***Assistant Commissioner (CT), Annasalai III Assessment Circle v. Indian Overseas Bank*** *[****(2016) 6 CTC 769****].*

*9. Reliance has been made on the order passed by the learned Single Judge in **Govindhji Jewat & Co., v. Rukmani Mills Ltd.**, reported in **2020 (6) CTC 313**, wherein, the aforesaid principle has been reiterated. In the said case, the learned Single Judge has held that the mortgage being earlier, it creates a right in favour of the mortgagee and therefore, even the order of attachment passed by the Civil Court will have to yield. In the said judgment also, the learned Single Judge made reliance upon the judgment of the Division Bench in **S.Senthamarai Kannan v. Chief Manager, Canara Bank, Palani Branch, Dindigul District** [**CDJ 2020 MHC 2555**].*

10.In the case on hand also, the registered mortgage was admittedly prior. The 9th respondent in W.P.(MD)No.6976 of 2020 / 8th respondent in W.P.(MD)No.1101 of 2021 sought for an attachment in an arbitration proceedings, in which, the petitioners Bank was obviously not a party, as the transaction has got nothing to do with it. The said order was also subsequent to the mortgage created in favour of the petitioner. Now, a third party right has also been created through the sale certificate issued in favour of the auction purchasers, viz., respondents 7 & 8 in W.P.(MD)No.6976 of 2020 and the 7th respondent in W.P.(MD)No.1101 of 2021. If the 1st respondent raise a contention that in view of the recording of the attachment order by it already, the subsequent sale deed cannot be registered, then the very act of recording the said interim order of attachment passed by the Tribunal itself ought not to have been done, as there was a subsisting mortgage on that date.

11. The learned Counsel appearing for the 9th respondent in W.P.(MD)No.6976 of 2020 / 8th respondent in W.P.(MD)No.1101 of 2021 submitted that there is a procedure violation. We are not concerned with the said issue. The question for consideration is as to whether the earlier mortgage would prevail as against the subsequent interim attachment. The question of procedural violation can only be raised by the borrower, who did not do so. Therefore, the said contention has got no relevance to the case on hand.

12. The submission made on the maintainability of the writ petitions is also rejected. We are not on the merits of the order passed by the Arbitration Tribunal, which is by way of an interim measure. The question is with regard to the upholding of one's own existing right, which is prior to the loan given by the 9th respondent in W.P.(MD)No.6976 of 2020 / 8th respondent in W.P.(MD)

No.1101 of 2021, in favour of the borrowers. Certainly, a mortgage deed creates right over the properties mentioned thereunder in favour of the mortgagee.

13. Therefore, looking from any perspective, we are of the view that the petitioner Bank cannot be denied the relief as sought for. In such view of the matter, both the writ petitions stand ***allowed.*** *The first respondent in both the writ petitions are directed to register the sale certificates issued by the petitioner Bank in favour of the respondents 7 & 8 in W.P.(MD)No.6976 of 2020 and the 7th respondent in W.P.(MD)No.1101 of 2021. Consequently, the encumbrance / attachment entry made on the file of the first respondent with respect to the properties, which are subject matter of the two mortgage deeds and the subject matter of these writ petitions, are directed to be deleted by the first respondent."*

14.The learned Senior Counsel would submit that the above decisions of the Division Bench have referred to several earlier precedents on the same subject matter therefore, in all fours the issue is covered and in the said circumstances, the refusal by the 1st respondent to register the sale certificate cannot be countenanced in law.

15.Mr.V.Anand, learned Government Advocate would fairly submit that in regard to the legal position he may not have any quarrel. However, the 1st respondent has taken a decision not to register the document was only because of the attachment of the property, which is reflected in the encumbrance. In any case, the learned Government Advocate would concede the legal position in favour of the petitioner and therefore, he would not wish to add anything more on this issue.

16.The private respondents in this case are not represented, despite notice was served and their names were printed in the cause list.

17.This Court in fact recently has considered the similar challenge and allowed the writ petition in ***State Bank of India, Stressed Asset Recovery Branch (SARB), Madurai Vs The Joint - II Sub-Registrar, Office of the Joint II Sub-Registrar, Karur and another*** in [W.P(MD)No.71254 of 2020, dated 24.03.2021].This Court has followed all the relevant earlier precedents and allowed the writ petition filed by the bank. The Courts have consistently held in favour of the right of the secured creditor and the law laid down is binding and to be followed. In view of the finding, the ratio as held above has to be applied squarely to the factual matrix to the present case as well.

18.In the above circumstances, this Court has no hesitation in allowing the writ petition. The impugned proceedings dated 26-05-2020 in Na.Ka.No.27 of 2020 of the 1st respondent is hereby set aside and the 1st respondent is hereby directed to register the document presented by the petitioner for registration, if the same is otherwise in order.

19.In the result, the writ petition is allowed No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

The Sub-Registrar,
Teppakulam Sub-Registrar Office,
Rajaghambeeram, Madurai.

+1 CC to M/s.A.R.M.RAMESH, Advocate (SR-15041[F] dated 01/04/2021

W.P(MD) No.11067 of 2020
31.03.2021

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