



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.07.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) .No.11629 of 2021

Tamilnadu Mercantile Bank Ltd.,
Thoothukudi Main Branch,
56 & 57, Beach Road,
Thoothukudi-628 001.

... Petitioner

Vs.

1.The Sub-Registrar,
Ottapidaram,
Thoothukudi District.

2.Commercial Tax Officer-I (FAC)
Commercial Tax Office,
No.10/9, Sivankovil Street,
Ettaiyapuram-627 902.

... Respondents

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records in regard to the proceedings in Na.Ka.No.70/2021, dated 15.03.2021 of the first respondent and quash the same and direct the first respondent to entertain and admit for registration the conveyance deed of the writ petitioner in favour of the Auction purchaser in respect of the land in an extent of 28 cents in S.No.65/4, Puthiyamputhur Village, Ottapidaram Taluk, Thoothukudi District.

For Petitioner : Mr.ARM.Ramesh

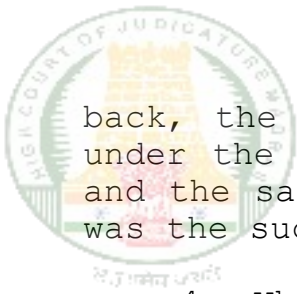
For R1 & R2 : Mr.M.Lingadurai
Government Advocate

ORDER

On consent given by either side, the main writ petition itself is taken up for final hearing.

2. The subject matter of challenge in the present writ petition is the impugned proceedings of the first respondent, dated 15.03.2021 wherein, the document presented for registration by the petitioner was refused to be entertained on the ground that the second respondent, namely, the Commercial Tax Officer has issued a letter stating that certain amount is due and payable by the original owner of the property and therefore, no transaction should be permitted by the first respondent.

3. The case of the petitioner is that loan facilities were extended to M/s P.M.D.Saw Mills and since the same was not repaid



back, the loan was declared as NPA and proceedings were initiated under the SARFAESI Act. The subject property was brought for sale and the sale certificate was issued in favour of one Natarajan, who was the successful bidder.

4. When the sale certificate was presented for registration before the first respondent, the same was refused to be registered on the ground that the property has been attached by the second respondent. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.ARM.Ramesh, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the respondents.

6. The issue involved in the present writ petition is squarely covered by the Full Bench judgment of this Court in W.P.No.2675 of 2011 etc., batch dated 10.11.2016. The Full Bench has categorically held that the secured creditor has a priority over the debt and this priority will even extend to the Government dues including Revenue, Tax etc. This judgment has been subsequently followed consistently by this Court and this Court has held that the debt of the secured creditor must be given priority and the registering authority cannot refuse to register the document on the ground that there is an attachment by the Commercial Tax Department.

7. In view of the above discussion, the impugned refusal letter issued by the first respondent, dated 15.03.2021 is hereby quashed. There shall be a direction to the first respondent to entertain the sale certificate presented for registration and the same shall be registered, if it is otherwise in order and necessary stamp duty and registration charges are paid. The documents shall be released immediately after registration.

8. This writ petition is allowed with the above direction. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

<https://hcservices.ecourts.gov.in/hcservices/>



that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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+1 CC to M/s.SPL GP (SR-22557[F] dated 14/07/2021)

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RK (20.07.2021) 3P 4C