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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.1083 OF 2022

M/s.Sri Sai Hari Constructions,
Represented by its Managing Partner,
R.Krishnakumar
Having Office at
No.19-20/5, Sasthri Street,
Poonga Nagar Premier Mills,
Othakalmandapam,
Coimbatore 641 032

...Petitioner

Vs

1. The Inspector General of Registration,
Santhome High Road,
Pattinampakkam,
Chennai 600 028.
2. The Sub Registrar,
Pollachi,
Coimbatore District 642 001.

...Respondents

Prayer :- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the second respondent herein to admit and register a sale certificate (for immovable property) in Edel ARC/348/2021-22 dated 07.05.2021 executed by the authorized officer M/s.Edelweiss Asset Reconstruction Company Pvt. Ltd. in favour of the petitioner herein, in exercise of powers conferred under Section 13 of SARFAESI Act, 2002 r/w Rule 6 of Security Interest (Enforcement) Rules, 2002 with respect to the lands comprised in SF.No.236/1B, 236/1E, 236/1F, 236/1G, 236/1I, 237/B2 totally measuring an extent of 7.56 acres situated at Thallakari Village and Panchayat, Muthur, Pollachi Taluk, Coimbatore District, without insisting for the production of original of the title deed and after registration, return the same to the petitioner.



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For Petitioner : Mr.V.P.Sengottuvel
For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

This writ petition is filed for direction directing the second respondent herein to admit and register a sale certificate (for immovable property) in Edel ARC/348/2021-22 dated 07.05.2021 executed by the authorized officer M/s.Edelweiss Asset Reconstruction Company Pvt. Ltd. in favour of the petitioner herein, in exercise of powers conferred under Section 13 of SARFAESI Act, 2002 r/w Rule 6 of Security Interest (Enforcement) Rules, 2002 with respect to the lands comprised in SF.No.236/1B, 236/1E, 236/1F, 236/1G, 236/1I, 237/B2 totally measuring an extent of 7.56 acres situated at Thallakari Village and Panchayat, Muthur, Pollachi Taluk, Coimbatore District, without insisting for the production of original of the title deed and after registration, return the same to the petitioner.

2. Heard, Mr.V.P.Sengottuvel, the learned counsel for the petitioner, and Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents.

3. The case of the petitioner is that one, M/s.Uthrakaliyamman Infrastructure Private Limited had borrowed money from the State Bank of India by mortgaging its properties including the land comprised in SF.No.236/1B, 236/1E, 236/1F, 236/1G, 236/1I, 237/B2 totally measuring an extent of 7.56 acres situated at Thallakari Village, Muthur, Pollachi, Coimbatore District. Thereafter the loan availed by the said Company had become non performing asset and the company also went into liquidation. Under an Assignment Agreement dated 30.03.2015, the State Bank of India represented by its Authorised Officer and Chief Manager, Secured Assets Management Branch, Coimbatore assigned the loans disbursed by the bank to the petitioner Company along with the mortgage assets with M/s.Edelweiss Asset Reconstruction Company Limited. It invited bids for sale of secured assets of the borrower under the SARFAESI Act, 2002 and the Security Interest (Enforcement) Rules, 2002 by publishing a public notice on 26.02.2021. The petitioner submitted its bid for the property described as Lot No.6 in the sale notice dated 26.02.2021 and the petitioner has become the successful and highest bidder. In pursuant to the same, the sale has been confirmed in favour of the petitioner and after receipt of the entire sale consideration, the sale certificate dated 07.05.2021 executed in favour of the petitioner. The sale certificate was



presented for registration before the second respondent without the original parent deed, since the petitioner requested M/s.Edelweiss Asset Reconstruction Company to hand over the original deed in respect of the subject property. However the original title deeds are in custody of the Debt Recovery Tribunal, Coimbatore in the recovery proceedings initiated by the State Bank of India and they would hand over the same, immediately on receipt of the same from the Debt Recovery Tribunal after closure of the said proceedings. However, the second respondent refused to receive the sale certificate for registration for want of production of original parent deed.

4. It is settled law that nowhere Registration Act empowers the Sub Registrar to insist for original parent document before registration and further the circular issued by the first respondent dated 25.04.2012 has no force in law, unless and otherwise such requirement is made under the Registration Act. The Hon'ble First Bench of this Court in the case of Dr.R.Thiagarajan Vs. The Inspector General of Registration and others in WP.(MD).No.3989 of 2017 dated 05.08.2019 held as follows:

15. In the judgment reported in 2013 (5) CTC 337 (P.M.Associates , Udhagamandalam Vs. IFICI Limited, Chennai and others), the Division Bench of this Court held as follows:-

"..... 30. In the judgment reported in (2007) 5 Supreme Court Cases 745 [B.Arvind Kumar Vs. Govt. of India and others], it is clear that when a property is sold by public auction in pursuance of an order of the Court and bid is accepted and the sale is confirmed by the Court in favour of the purchaser, the sale becomes absolute and the title vests in the purchaser. The Sale Certificate is issued to the purchaser only when the sale becomes absolute, further, it is clear that the Sale Certificate is merely an evidence of such title. It is also well settled that when an auction purchaser derives title on confirmation of sale in his favour, the Sale Certificate is issued evidencing such sale and title, no further deed of transfer from the Court is contemplated or required. So far as the registration of the Sale Certificate is concerned, under [Section 17\(2\)\(xii\)](#) of the Registration Act, the Sale Certificate issued by a Civil or Revenue Officer does not fall



M/s.Edelweiss Asset Reconstruction Company Pvt. Ltd. in favour of the petitioner in respect of lands comprised in SF.No.236/1B, 236/1E, 236/1F, 236/1G, 236/1I, 237/B2 totally measuring an extent of 7.56 acres situated at Thallakari Village and Panchayat, Muthur, Pollachi Taluk, Coimbatore District without insisting for production of original title deed and release the same. It is made clear that the sale certificate issued by the authorised officer requires registration as well as stamp duty under Article 18-C read with Article 23 of Schedule 1 of the Indian Stamp Act.

7. With the above directions, the writ petition is allowed. No order as to costs.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
Santhome High Road,
Pattinampakkam,
Chennai 600 028.
2. The Sub Registrar,
Pollachi,
Coimbatore District 642 001.

+1cc to the Government Pleader, S.R.No.4768

WP.No.1083 of 2022

MT(CO)
RLP(21/02/2022)