



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.NO.6724 OF 2022

AND

WMP.NO.6810 OF 2022

State Bank of India
Asset Recovery Management Branch,
No.44, Eldams Road, 1st Floor,
Teynampet, Chennai 600 018.
rep.by its Chief Manager

... Petitioner

Vs.

1. The Sub Registrar,
Adyar, Chennai 600 020.
2. Mrs.V.S.Navaneetham
3. Smt.A.Sangeetha

... Respondents

PRAYER: The Writ Petition filed under Section 226 of Constitution of India, pleaded to issue a Writ or direction or order more particularly in the nature of Writ of Certiorarified Mandamus Calling for the records of the first respondent namely refusal check slip No.RFL / Adayar / 48 / 2021 dated 15.12.2021 and quash the same as null and void and consequently to direct the first respondent to register the sale certificate dated 01.12.2021 issue by the Petitioner bank in favour of auction purchaser / third respondent.

For Petitioner	:	Mr.M.L.Ganesh
For RR1	:	Mr.Yogesh Kannadasan Special Government Pleader

O R D E R

Writ Petition has been filed to call for the records relating to the impugned order of the respondent in Refusal No. No.RFL / Adayar / 48 / 2021 dated 15.12.2021 and quash the same as the same is arbitrary, illegal and non-est in the eyes of law



and consequently to direct the first respondent to register the sale certificate dated 01.12.2021 issue by the Petitioner bank in favour of auction purchaser / third respondent.

2. Since no adverse orders are passed against the respondents, notice to them is not necessary and this Writ Petition is disposed of based on the available materials.

3. The case of the petitioner is that M/s.Sri Aparajita Procons had availed overdraft credit facility from the petitioner Bank and the 2nd respondent had offered collateral security of immovable property of vacant land situated at Old Door No.26, New Door No.115, Bharathi Avenue, Second Street, Kottur Village, Mylapore Triplicane Taluk, comprised in S.F.No.79/5A, T.S.Nos.125, 126 and 127, block No.16, being Plot No.B, Measuring an extent of 4343 sq.ft, which includes passage 742 sq.ft in favour of the petitioner Bank. Thereafter, the 2nd respondent had created an EM with an intention to create equitable mortgage over the aforesaid property and also executed MOD on 28.04.2014, to cover the aforesaid loan liability. Since the 2nd respondent had derived title and ownership over the aforesaid property by virtue of family partition, she had deposited certified copy of partition deed dated 27.03.1992. Since the borrower had committed default in repaying the loan amount, the loan account was treated as Non Performing Assets and after issuance of necessary notices under the SARFAESI Act, the property was brought for sale in the e-auction and in the e-auction sale proceedings, the 3rd respondent was declared as successful bidder for a total sale price amount of Rs.1.89 crore and subsequently, the petitioner Bank had issued sale certificate on 01.12.2021 in favour of the said auction purchaser / 3rd respondent herein. When the said Sale Certificate was presented for registration before the 1st respondent, the same was rejected on the same day by citing that original partition deed and MOD not produced. Aggrieved by the same, the present writ petition is filed by the petitioner.

4. Though very many grounds have been raised, learned counsel for the petitioner submits that though the petitioner annexed the certified copies of the partition deed and MOD, even then the respondent refused to register the document is not sustainable. He further relied upon the decision of this Court in W.P.(MD)No.19745 of 2020, order dated 11.02.2021, wherein, even in respect of non-filing of the parent document along with the sale deed for registration, this Court had held that it is not necessary that parent document should be annexed along with the sale deed and it would suffice if certified copy of the parent document is annexed. The relevant portion of the above said order is extracted hereunder:-





entertain the document presented by the petitioner and pass appropriate orders if otherwise in order and after collecting heavy stamp duty and registration charges, within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

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To

The Sub Registrar,
Adyar, Chennai 600 020.

+1cc to the Government Pleader, S.R.No.21363

W.P.No.6724 of 2022

GPL(CO)
RLP(09/05/2022)