



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2022

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.9559 of 2021

John Beevi

... Petitioner

vs.

1.The Deputy Inspector General of Registration,
(Combined Registration Office Buildings)
Opp Collector office, Vallam Road,
Thanjavur - 613010.

2.The District Registrar,
Pasupathi Street, 1st floor,
Koorai Nadu, Myladuthurai-609001.

3.The Sub Registrar,
Kollidam, Sirkazhi Taluk,
Nagapattinam District.

4.The Branch Manager,
Thanjavur Branch,
The Tamilnadu Industrial Investment Corporation,
No.2854, N.G.K.Apartment, Nanjilkottai Road,
Thanjavur - 613001.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1 to 3 to take necessary action on her representation dated 22.02.2020 and 27.02.2020 to register the Certificate of Sale issued by the 4th respondent dated 15.03.2019.

For Petitioner : Mr.R.Narendran

For R1 to R3 : Mr.Yogesh Kannadasan
Special Government Pleader



For R4

: Mr.K.Magesh

ORDER

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The writ petition has been filed to issue a Writ of Mandamus, directing the 1st to 3rd respondents to take necessary action on her representations dated 22.02.2020 and 27.02.2020 to register the Certificate of Sale issued by the 4th respondent dated 15.03.2019.

2. The case of the petitioner is that the petitioner purchased the property comprised in S.No.658/4B and 5 ad-measuring to an extent of 6976 sq.ft., situated at Pallivasal Theru, Thulasenthirapuram Village, Thirumailadi Revenue Village, Sirkali Taluk, Myladuthurai, in the public auction of sale conducted by the 4th respondent under SARFAESI Act, 2002 for default in payment of dues by the borrower. The petitioner was the successful bidder for a sum of Rs.17,75,000/- and she was issued Sale Certificate dated 15.03.2019. When the petitioner approached the 3rd respondent for registration of the said Sale Certificate, the 3rd respondent informed that there is a sale agreement dated 29.05.2012 registered by the borrower and the mortgager of the subject property given as collateral security to a third party.

2. The Hon'ble Division Bench of this Court repeatedly held that though the agreement for sale is pending, it is not an impediment for the Registering Authority to register the sale deed subsequent to the agreement for sale. In fact, the subject property was mortgaged in favour of the 4th respondent as early as on 14.07.1994. While pending the said mortgage and the said mortgage was very much subsisting the alleged agreement for sale dated 29.05.2012 registered by the 3rd respondent. Therefore, the 3rd respondent shall register the Sale Certificate dated 15.03.2019 presented by the petitioner for registration. Further, it is also made clear that the sale certificate issued by the 4th respondent is liable for stamp duty under Article 18(c) read with Article 23 of Schedule 1 of the Indian Stamp Act, 1899.

3. In view of the above, the petitioner is directed to represent the Sale Certificate dated 15.03.2019 for registration before the 3rd respondent along with requisite stamp duty and registration fee and on receipt of the same, the 3rd respondent is directed to register and release the same, forthwith.



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4. With the above direction, the writ petition is allowed. No costs.

Sd/-

Assistant Registrar(Digit)

// True Copy //

Sub Assistant Registrar

dm

To

- 1.The Deputy Inspector General of Registration,
(Combined Registration Office Buildings)
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+1cc to Mr.K.Magesh, Advocate SR.No.2631
+2cc to Mr.D.Sivakumar, Advocate SR.No.2552
+1cc to the Government Pleader, SR.No.3378

W.P.No.9559 of 2021

MT (CO)
CB(18/02/2022)