



WEB COPY



W.P.No.25726 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.25726 of 2022

The UCO Bank,
Asset Management Branch [2123],
No.328, 2nd Floor, Thambu Chetty Street,
Parrys, Chennai – 600 001.
Represented by its Authorised Officer,
Mr.Hemant Kumar (Emp. Id. 46934)

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Represented by its Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat, Chennai – 600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai – 600 028.
- 3.The Sub Registrar,
(In the cadre of the District Registrar),
Office of the Sub Registrar Office Kodambakkam,
Kodambakkam, Chennai – 600 002.

4.E.Nandagopal

... Respondents



W.P.No.25726 of 2022

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the Refusal Check Slip Dt. 25.05.2022 vide Refusal No.RFL/Kodambakkam/46/2022 of the 3rd respondent and quash the same and consequently direct the 3rd respondent to register the sale certificate Dt.19.05.2022 executed by the petitioner in favour of the 4th respondent.

For Petitioner	:	Mr.P.S.Ganesh
For R1 to R3	:	Mr.G.Krishna Raja, Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the Refusal Check Slip dated 25.05.2022 vide Refusal No.RFL/Kodambakkam/46/2022 of the 3rd respondent, to quash the same and consequently direct the 3rd respondent to register the sale certificate dated 19.05.2022 executed by the petitioner in favour of the 4th respondent.

2. Since no adverse order is being passed against the fourth respondent, notice to the fourth respondent is dispensed with.

3. The case of the petitioner is that the petitioner is the secured creditor Bank and the property situated at Plot No.4, Door No.17, Thirunagar 7th Street, Vadapalani, Chennai 26, in the land comprised in T.S.No.2,



W.P.No.25726 of 2022

Paimash No.394, Block No.2, in Puliur Village, Egmore Taluk, within the registration District of Central Chennai and Registration Sub-District of Kodambakkam, has been mortgaged to the petitioner Bank by the borrower namely, S.Venkateswaran. The said borrower S.Venkateswaran, availed Term Loan to the tune of Rs.67,00,000/- (Rupees Sixty Seven Lakhs only) from the petitioner Bank. Further, the borrower defaulted in payment and the loan account was classified as Non Performing Asset (NPA) on 13.12.2015. Since the borrower did not come forward to repay the loan amount, as demanded by the petitioner bank, the Bank initiated proceedings under the SARFAESI Act and the property was sold by way of e-auction to the fourth respondent.

4. Pursuant to the same, the petitioner Bank executed the sale certificate dated 19.05.2022 and the same was presented before the third respondent on 25.05.2022 for registration. However, the said document was refused to be registered on the ground that registered Mortgage by Deposit of Title Deeds was not produced. Accordingly, the third respondent issued a refusal check slip on 25.05.2022. Challenging the same, the petitioner filed the present Writ Petition.



W.P.No.25726 of 2022

5. The learned counsel for the petitioner submitted that the facts in the present case are not in dispute. Admittedly, the petitioner Bank initiated proceedings under the SARFAESI Act against the borrower Venkateswaran for non-payment of loan amount and the petitioner Bank issued sale certificate in favour of the fourth respondent, who is the successful auction purchaser, and the same was presented before the third respondent for registration. However, the third respondent refused to register the sale certificate on the ground that the mortgage by deposit of title deeds has not been registered. It is the specific plea of the petitioner that the mortgage by deposit of title deeds is not required to be registered under law. In support of the said submission, he placed reliance on the decision of the Apex Court in *State of Haryana Vs. Narvir Singh (2014) 1, SCC 105*.

6. On the above said contentions, heard learned counsel for respective respondents and perused the materials available on record.

7. A perusal of the records reveals that once the sale certificate is issued under the SARFAESI Act, it has to be registered in the manner known to law. However, the third respondent/Sub-Registrar can refuse to register the document only if there is any restraint order passed in accordance with law.



W.P.No.25726 of 2022

In the case on hand, there is no restraint order, and therefore, the third respondent cannot refuse to register the sale certificate issued under the SARFAESI Act. Moreover, the Apex Court in Narvir Singh, supra, has categorically held that mortgage by deposit of title deeds is not required to be registered.

8. In view of the above, the Writ Petition is allowed and the impugned Refusal Check Slip is set-aside. The third respondent is directed to entertain the document presented by the petitioner and pass appropriate orders, upon receipt of the necessary Stamp Duty and Registration Charges, if there is no legal impediment. No costs.

26.09.2022

Index : Yes / No
Speaking order: Yes/ No
jd

To

- 1.The Secretary to Government,
State of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat, Chennai – 600 009.
- 2.The Inspector General of Registration,
No.100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalai Puram, Chennai – 600 028.



WEB COPY



W.P.No.25726 of 2022

M.DHANDAPANI, J.

jd

3.The Sub Registrar,
(In the cadre of the District Registrar),
Office of the Sub Registrar Office Kodambakkam,
Kodambakkam, Chennai – 600 002.

W.P.No.25726 of 2022

26.09.2022