



W.P.No.24555 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2022

CORAM:

THE HON'BLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.24555 of 2022

and

WMP.No.23522 of 2022

The Authorised Officer/Chief Manager,
Tamilnadu Mercantile Bank Ltd.,
Salem Branch, Salem-636 007.

...Petitioner

Vs.

The Sub-Registrar,
Pappireddipatti,
Dharmapuri District.

...Respondent

Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records relating to the order passed by the respondent in Na.Ka.No.137/2022 dated 06.07.2022, quash the same and consequently direct the respondent to register the Sale Certificate dated 19.05.2022 issued by the petitioner in respect of the property in the form land and building situated on Dharmapuri Registration District, Pappireddipatti SRO, Pappireddipatti Taluk, B.Mallapuram Village, Natham Survey No.42/2, 42/3 in this New Natham Survey No.42/4Q, 150 sq. meter, Asst.2.00 in this property situate within the following boundaries: South of the house of Devaki, North of the house of Vijayalakshmi, Bhuvaneswari; West of the Rajaveethi; East of House of Elango; In the midst, East-West on both side 61 feet, North-South eastern side 16 ¼ feet, western



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side 17 ¼ feet in total 1021 ¾ sq. feet and R.C.C. Terrace House Door No.48 constructed with bricks, sand and cement, including the windows, doors with electric service connection.

For Petitioner : Mr.V.Chandrasekaran

For Respondent : Mr.C.Jayaprakash, GA

ORDER

The petitioner has filed this Writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records of the order passed by the respondent in Na.Ka.No.137/2022 dated 06.07.2022, quash the same and to consequently direct the respondent to register the Sale Certificate dated 19.05.2022 issued by the petitioner in respect of the subject property.

2. The case of the petitioner is that, the property comprised in Natham Survey No.42/2, 42/3, New Natham Survey No.42/4Q, 150 sq. meter, Asst.2.00, situated at B.Mallapuram Village was originally owned by one Sakunthala and she having purchased the said property, vide registered sale deed Doc.No.963 of 2005 dated 06.06.2005, has derived the title over the same. Thereafter, the said Sakunthala has borrowed a loan from the petitioner/bank by creating mortgage in favour of the petitioner/bank in



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respect of the subject property, vide, Doc.Nos.3041 of 2011 and 2788 of 2020 dated 25.08.2011 and 30.09.2020 respectively. Since the same was not repaid by the said Sakunthala, she was declared as defaulter and the proceedings were initiated under the SARFAESI Act, and public auction was conducted by the petitioner/bank on 16.03.2022 and the said property was sold to and in favour of one C.Riyas for a total consideration of Rs.45,80,000/-, after following all the procedures contemplated under the SARFAESI Act and rules. Subsequently, the petitioner/bank has presented the sale certificate dated 19.05.2022 before the respondent for registration, however, the respondent has refused to register the same, vide proceedings in Na.Ka.No.137/2022 dated 06.07.2022, on the ground that, the S.No.42/4Q, New S.No.42/4Q1, actually measures only 807 sq. feet, however, in the sale deed Doc.No.963/2005, it is mentioned as S.No.42/4Q, measuring an extent of 1021.75 sq. feet and accordingly directed the petitioner/bank to carryout the necessary changes in the revenue records and present the same for fresh registration. Hence, challenging the same, the present Writ petition is filed.

3. Learned counsel for the petitioner submitted that the patta and other



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revenue records like Chita and Adangal are not a title and the borrower the said Sakunthala possessed the title over the subject property, vide Doc.No.963 of 2005 and the extent of the land mentioned in the said document is 1021.75 sq. feet only and thereafter, she mortgaged the said property with the petitioner/bank. Further, the major grievance of the petitioner is that, when the title deed says that the extent of the property is 1021.75 sq. feet and it binds upon the respondent, while so, by merely referring the adangal and chitta, refusing to register the sale certificate presented by the petitioner/bank is not sustainable one. Hence, he prayed for appropriate orders.

4. Learned Government Advocate appearing for the respondent submitted that, the sale certificate presented by the petitioner/bank was refused to be registered, since there is a difference in the extent of the subject property in the revenue records and the title deed produced by the petitioner/bank. However, he fairly submitted that, the title deed prevails over the revenue records.



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5. Heard learned counsel on either side and perused the materials available on record.

6. Admittedly, the subject property was originally owned by the said Sakunthala and the said property was brought to public auction by the petitioner/bank by initiating proceedings under the SARFAESI Act against the said Sakunthala, by declaring her as a defaulter, as she has failed to repay the loan borrowed by mortgaging the said property with the petitioner's bank and thereafter, the said property was purchased by one C.Riyas for a valid sale consideration and subsequently, the sale certificate dated 19.05.2022 was presented for registration and the same was refused to be entertained by the respondent on the ground that there is a difference in the extent of the property mentioned in the sale deed Doc.No.963/2005 and the revenue records.

7. However, it is pertinent to note that, the revenue records will not confer the title over the property and the same can be affirmed only by the title deed. While so, refusing to register the sale certificate presented by the



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petitioner/bank solely on the ground that a different extent is mentioned in the revenue records is not sustainable. Hence, on the sole ground, the order impugned in this Writ petition is liable to be set aside.

8. In view of the above, the present impugned order dated 06.07.2022 passed by the respondent is set aside and the respondent is directed to entertain the document presented by the petitioner/bank and pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order.

9. With the above observations and directions, this Writ petition is allowed. No costs. Consequently, connected Miscellaneous petition is closed.

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skt

Index : Yes/No

Speaking order : Yes/No

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Dharmapuri District.

M.DHANDAPANI, J.

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