



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.03.2022

CORAM:

THE HONOURABLE **MR. JUSTICE ABDUL QUDDHOSE**

W.P.[MD]No.4164 of 2022

WEB COPY

S.Sathyaiyan

... Petitioner

/Vs./

The Joint Sub Registrar,
(Document Registration Department),
No.2, Joint Sub Registrar Office,
Thoothukudi District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records of the impugned refusal check slip in Refusal No.RFL/2 No.Joint Sub Registrar Thoothukudi/1/2022 dated 31.01.2022 passed by the respondent and quash the same and consequently direct the respondent to register the sale deed presented by the petitioner dated 31.01.2022.

For Petitioner : Mr.S.Vishnuvardhan

For Respondents : Mr.S.Shanmugavel

Additional Government Pleader

ORDER

This writ petition has been filed challenging the refusal check slip issued by the respondent on 31.01.2022 refusing to register the sale certificate submitted by the petitioner for registration on the ground that the original owner, Sankaranarayana Ramasamy had executed a settlement deed in favour of his son, MuthurameshDoss and MuthurameshDoss had deposited the title deed in favour of Sri Ram Chits Tamil Nadu Private Limited.

2.It is the contention of the petitioner that mortgage created by Sankaranarayana Ramasamy in favour of Life Insurance Corporation of India (LIC) was the first mortgage and therefore, there is no prohibition for the respondent to register the sale certificate presented by the petitioner for registration. According to the petitioner, in SARFAESI sale conducted by LIC, on account of default of the borrower, Sankaranarayana Ramasamy, the property was brought for sale and he is the successful bidder. Only thereafter, the LIC has executed the sale certificate in his favour.

3.Therefore, it is the further contention of the petitioner that arbitrarily and illegally, the respondent has refused to register the sale certificate under the impugned order dated 31.01.2022. The petitioner has also challenged the impugned order



on the ground of violation of principles of natural justice, as no opportunity of hearing was granted to the petitioner by the respondent before passing the impugned refusal check slip dated 31.01.2022.

4. Heard Mr.S.Vishnuvardhan, learned Counsel for the writ petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the respondent.

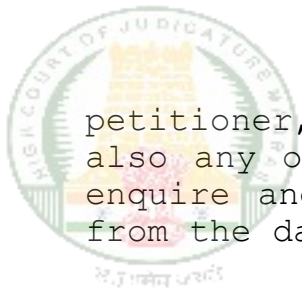
5. The learned Additional Government Pleader, on instructions, would submit that since there is a settlement deed and the mortgage by deposit of title deed, which has been registered for the very same property, subsequent to the purchase by the petitioner in a public auction conducted by the LIC, the respondent has refused to register the sale certificate presented by the petitioner for registration.

6. However, as seen from the impugned refusal check slip dated 31.01.2022, no opportunity of hearing was granted to the petitioner. In respect of his contention that there is no prohibition for the respondent to register the sale certificate, as mortgage created by Sankaranarayana Ramasamy, in favour of LIC was the first mortgage, according to the petitioner, the settlement deed which was executed by the very same Sankaranarayana Ramasamy, in favour of his son, Muthuramesh Doss, who has alleged to have executed a second mortgage by depositing title deed in favour of Sri Ram Chits Tamil Nadu Private Limited is a fraudulent document only to deprive LIC from recovering his dues.

7. It is also the contention of the petitioner that the deposit of title deed alleged to have been created for the very same property subsequently, in favour of the Sri Ram Chits Tamil Nadu Private Limited is also a bogus document. Unless and until the petitioner was afforded an opportunity of hearing, the respondent would not have been aware of the said contention.

8. Having not afforded any hearing to the petitioner before issuing the impugned refusal check slip dated 31.01.2022, this Court is of the considered view that principles of natural justice have been violated by the respondent. In such circumstances, the impugned refusal check slip dated 31.01.2022 has to be necessarily quashed and the matter has to be remanded back to the respondents for fresh consideration, on merits and in accordance with law, after affording a fair hearing to the petitioner and other necessary parties, whom the respondent deems fit to enquire.

9. Accordingly, the impugned refusal check slip dated 31.01.2022 issued by the respondent is hereby quashed and the matter is remanded back to the respondent for fresh consideration, on merits and in accordance with law, after affording a fair hearing to the



petitioner, including granting him the right of personal hearing and also any other necessary parties, whom the respondent deems fit to enquire and pass final orders, within a period of eight [8] weeks from the date of receipt of a copy of this order.

10. It is made clear that if the respondent comes to the conclusion that the sale certificate presented by the petitioner can be registered, the respondent is directed to register the same within a period of one (1) week from the date of passing final orders, if the sale certificate is otherwise in order and the registration charges have been paid.

11. With the aforesaid direction, this Writ Petition stands disposed of. There shall be no order as to costs.

Sd/-

Assistant Registrar(AE)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The Joint Sub Registrar,
(Document Registration Department),
No.2, Joint Sub Registrar Office,
Thoothukudi District.

+1 CC to M/s.S.VISHNUVARDHAN, Advocate (SR-11269[F] dated 10/03/2022)

+1 CC to M/s.SPL GP (SR-11497[F] dated 11/03/2022)

order made in

W.P.[MD]No.4164 of 2022

Dated:**09.03.2022**

ck(CO)

TR(24.03.2022) 3P 4C