BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.04.2022
CORAM:
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE
W.P.[MD]No.5474 of 2022

T.Praveena ... Petitioner

Vs.

1.The Sub Registrar,
Mahrnonbuchavadi Registrar Office,
Thanjavur District.

2.The Authorised Officer,
Equitas Small Finance Bank Ltd.,
2nd Floor, No.5 Williams Road,
Cantonment,
Tiruchirappalli District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, calling for the records pertaining to the original Refusal Check slip passed by the first respondent vide his proceedings in RFL/Mahrnonbuchavadi/14/2022 dated 20.01.2022 and quash the same as illegal and pleased to pass an order 1st respondent is directed to file the sale certificate presented by the second respondent under Section 89(4) of the Registration Act, 1908, without insisting the stamp duty and necessary registration fees Rs.200.

For Petitioner : Mr.M.Vivek
For Respondent No.1 : Mr.S.Shanmugavel
Additional Government Pleader

O R D E R

This writ petition has been filed challenging the original Refusal Check slip passed by the first respondent vide his proceedings in RFL/Mahrnonbuchavadi/14/2022 dated 20.01.2022, to quash the same and to issue a direction to the 1st respondent to file the sale certificate presented by the second respondent under Section 89(4) of the Registration Act, 1908, without insisting the stamp duty and necessary registration fees of Rs.200.

2.It is the contention of the petitioner that she was the successful bidder in the auction conducted by the second respondent, thereafter a sale certificate dated 27.12.2021 was also issued in her favour for the subject property. The petitioner presented the sale certificate for registration. The second respondent has also forwarded the sale certificate issued in favour of the petitioner to the first respondent for registration in book-I under Section 89 of the Act. However, till date, the first respondent has not registered the sale certificate. In such circumstances, the petitioner has filed this writ petition.

3.Heard Mr.M.Vivek, learned Counsel appearing for the petitioner and Mr.S.Shanmugavel, learned Additional Government Pleader who accepts notice on behalf of the first respondent.

4.Learned Counsel for the petitioner drew the attention of this Court to a judgment of the learned Single Judge of this Court dated 17.11.2021 passed in W.P.No.20769 of 2021, pertaining to the issue of the third respondent therein who had sold a property through an auction to the petitioner therein and the sale certificate in that case also was refused to be registered but pursuant to the order dated 17.11.2021, referred to supra, passed in W.P.No.20769 of 2021, a direction was issued to the second respondent therein to register the sale certificate in Book-I under Section 89 of the Act, without insisting upon the payment of stamp duty. In particular, learned Counsel for the petitioner referred to paragraph No.8 of the said order, wherein the learned Single Judge has held that when a sale certificate is presented before the second respondent not for the purpose of registration but only for the purpose of filing it under Section 89 of the Act, the second respondent cannot refuse acceptance for registration under Book-I.

5.Per contra, learned Additional Government Pleader appearing for the first respondent would submit that stamp duty is payable by the petitioner for registration of the sale certificate. The said statement is recorded.

6.Section 89(4) of the Act makes it clear that once a copy of the sale certificate is forwarded by Revenue Officer granting a certificate of sale, the registering authority within the local limits of whose jurisdiction the property is situated, shall file the copy of the sale certificate in Book-I. In the case on hand also, the property has been purchased by the petitioner only pursuant to the petitioner becoming the successful bidder in the auction conducted by the second respondent and only thereafter the sale certificate came to be issued in her favour. The petitioner has also not sought for registration of the sale certificate but has only requested the registering officer to file the sale certificate in Book-I in accordance with the Act.

7.After giving due consideration to the aforementioned facts, this Court is inclined to allow the writ petition as the law is very clear on the point of issue involved in this writ petition.

8.Accordingly, the prayer sought for in this writ petition is granted, the impugned order is quashed and the writ petition is allowed and a direction is issued to the first respondent to file the sale certificate submitted by the second respondent in respect of the property purchased by the petitioner in Book-I as per the provisions of Section 89 of the Act within a period of two [2] weeks from the date of receipt of a copy of this order. The first respondent is also not empowered to insist for payment of stamp duty under the provisions that are applicable for normal registrations which fall under Book-II. There shall be no order as to costs.

Sd/-

Assistant Registrar (CRL)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

MR

To

The Sub Registrar,
Mahrnonbuchavadi Registrar Office,
Thanjavur District.

+1 CC to M/s.SPL.GP (SR-16674[F] dated 05/04/2022)

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SG(CO)
KB(20.04.2022) 3P 3C