



W.P(MD)No.11393 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.08.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.11393 of 2022

Tamilnad Mercantile Bank Limited,
Vadakkankulam Branch,
D.No.10-265, Lincy Complex,
Radhapuram Road,
Vadakkankulam – 627 116.
Tirunelveli District.

Represented by
The Senior Branch Manager /
Authorised Officer,
Mr.G.Ramesh

... Petitioner

Vs

1.The Sub Registrar,
Panagudi – 639104,
Tirunelveli District.

2.M.Ranto Jijay
3.R.Michel Dhanaraja
4.M.Hadrien Singh Brient
5.R.Krishnamoorthy
6.M/s. Shriram Transport Finance Company,
Represented by its Power of Attorney,
Mr.S.Surendar,
No.66 F 3/3, Thambi Complex,
1st Floor, Nagercoil Main Road,
Melapalayam,
Tirunelveli – 627 005.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the first respondent, Sub Registrar, Panagudi, Tirunelveli District to efface / delete the encumbrance attachment entry Doc. No.2/2021, registered on 23.02.2021 as against the schedule mentioned property as per petitioner representation dated 04.03.2022.

For Petitioner : Mr.N.Dilip Kumar

For Respondents : Mr.K.S.Selvaganesan
Additional Government Pleader for R.1

Mr.H.Velavadhas for R.6

No Appearance for R.2 to R.5

ORDER

Heard the learned counsel appearing for the writ petitioner, the learned Additional Government Pleader for the first respondent and the learned counsel appearing for the sixth respondent.

2. The respondents 2 to 5 are borrowers from the writ petitioner. They had created security interest in favour of the writ petitioner bank. They committed default. The secured asset was brought to auction under SARFAESI proceedings. However, the petitioner could not attract bidders or buyers on account of the impugned encumbrance. The sixth respondent had financial transaction with the very same borrowers and obtained an arbitral award against



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them and the same is reflected in the encumbrance register. It is also in respect of the very same secured asset.

3. The case of the petitioner is that since they are secured creditors in terms of SARFAESI Act, they are entitled to priority.

4. When the matter was taken up for hearing, the learned counsel appearing for the sixth respondent informed the Court that their dues have since been settled.

5. In view of the submission made by the sixth respondent, the first respondent is directed to delete the petition mentioned encumbrance attachment entries forthwith and without any delay. This writ petition is allowed. No costs.

22.08.2022

Index : Yes / No
Internet : Yes/ No
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To

1.The Sub Registrar,
Panagudi – 639104,
Tirunelveli District.



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2. Shriram Transport Finance Company,
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1st Floor, Nagercoil Main Road,
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