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W.P.No.1619 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.03.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.1619 of 2023

1.M/s.Farwood Industries Ltd.,
Rep. by its Managing Director,
Mr.M.P. Farook,
Registered and Administrative Office,
No.4/605, Old Mahabalipuram Road,
Perungudi PO, Chennai – 600 096.

2.Mrs.Noorjahan Farook

3.D. Arun

... Petitioners

Vs.

1.The Sub-Registrar,
(District Registrar Cadre)
Adayar Sub Registra Office,
No.94, Perumal Koil Street,
Kotturpuram, Chennai – 600 085.

4.M/s.State Bank of India,
Stressed Assets Management Branch,
Red Cross Building, II Floor,
No.32, Montieth Road,
Egmore, Chennai – 600 008.

... Respondents

*[R2 & R3 are struck off from array of parties vide order dated 24.01.2023
made in WP.No.1619 of 2023 by RSKJ]*



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the 1st respondent to release the sale deed, which was registered as P/Adayar/179/2022 dated 04.11.2022 in the SRO-Adyar forthwith.

For Petitioners : Mr.D. Muthukumar
for M/s.Paul and Paul

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader [R1]
Mr.M.C. Ganesh,
Standing Counsel [R4]
R2 & R3 – Given up

ORDER

The brief facts of the case are as follows:-

For a default of a loan committed by the first petitioner/Company, the fourth respondent/Bank had filed an Original Application in OA.No.221 of 2010 before the second respondent/Tribunal, for recovery of the default loan amount. Along with the Original Application, Interim Application in I.A.No.509 of 2010 was also filed and by an order dated 20.10.2010, interim injunction restraining the first petitioner/Company from alienating or transferring the schedule mentioned property therein, was granted. Through a joint Memo of Compromise and a One Time



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Settlement by the first petitioner, the entire loan amount was discharged. Consequently, the second respondent/Tribunal had passed final orders in O.A.No.221 of 2010 dated 16.11.2012, recording the terms and conditions of the compromise settlement and thereby, closed the main Original Application. The original title deeds of the mortgaged properties were also redeemed. Thereafter, the second and third petitioners had executed a Sale Deed on 04.11.2022 and presented up in the Office of the first respondent herein, for registration. However, in view of the interim injunction order passed in I.A.No.509 of 2010 in O.A.No.221 of 2010 dated 20.10.2010, was reflected in encumbrances relating to the subject property, the first respondent herein had refused registration. In the background of these facts, the petitioners herein pray for release of the Sale Deed which was kept as a pending document.

2. The learned counsel for the petitioners submitted that though the first respondent had requested the second respondent/Tribunal to provide with a copy of the order, raising the attachment to remove the encumbrances, no action has been taken till date. He would further submit that the first respondent need not wait for the reply from the



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second respondent/Tribunal since the Original Application itself had been closed and hence, the interim order of attachment, is deemed to have been closed.

3. Per contra, the learned Special Government Pleader appearing for the first respondent submitted that Section 22-B(3) of the Registration Act (hereinafter called as 'the Act'), empowers the first respondent to refuse registration of a document when there is a permanent or provisional attachment of the subject properties by a Competent Authority and unless such attachment is raised, the refusal to register the document does not suffer from any infirmity.

4. It is no doubt true that Section 22-B(3) of the Act, empowers the Registering Officer to refuse to register a document relating to transfer of immovable property by way of sale, lease which is attached permanently or provisionally by a Competent Authority by any Central Act or State Act for the time being in force or any Court or Tribunal. Merely because such an attachment is reflected in the Register of the subject properties, would not be an embargo, when it is substantiated



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before the Registering Authority that such an attachment has been either lifted or otherwise closed.

5. In the instant case, when the final orders in O.A.No.221 of 2010 was passed by the second respondent/Tribunal on 16.11.2012, closing the Original Application, the interim orders passed in the said proceedings would merge with the original order and the attachment therein, is deemed to have been lifted. This apart, in the order dated 20.10.2010 passed in I.A.No.509 of 2010 in O.A.No.221 of 2010, the injunction itself was as an interim order, made in the application wherein, the injunction restraining the defendants from alienating subject properties was sought for, 'pending disposal' of the Original Application. Thus, when the Original Application is finally disposed of, the interim order of injunction, would become infructuous. If that be so, the petitioners need not await for an order to be passed in the application, which is claimed to have been filed by them before the second respondent and the jurisdiction of the Debts Recovery Tribunal (DRT) has also changed and is now vested with the third respondent herein.



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6. The learned counsel for the petitioners has expressed the inability of the petitioners to have the application seeking for attachment from being lifted, in view of the change in the jurisdiction of the Tribunal.

7. In view of the findings and observations made above, this Court is of the view that the first respondent/Authority could be directed to register the petitioners' Sale Deed, without awaiting for orders of DRT, for lifting the attachment over the subject properties.

8. In the light of the above findings, there shall be a direction to the first respondent herein, to forthwith register the Sale Deed dated 04.11.2022, which has been kept as a 'pending document' in P/Adayar/179/2022 forthwith, if it is otherwise in order and release the document to the petitioners, and any fund, within a period of two (2) weeks from the date of receipt of a copy of this order.



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9. Accordingly, the Writ Petition stands allowed. No costs.

07.03.2023

Speaking/Non-speaking Order

Index: Yes/No

Internet: Yes/No

Neutral Citation: Yes/No

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To

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(District Registrar Cadre)
Adayar Sub Registra Office,
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M.S.RAMESH, J.

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