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W.P.No.5668 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.07.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.5668 of 2023 &
W.M.P.No.5675 of 2023

1.K.Muthusamy
2.V.Ramasamy

... Petitioners

Vs.

1.The Inspector General of Registration,
Santhome High Road, Mylapore,
Chennai – 600 004.

2.The District Registrar,
District Registrar Office,
Namakkal.

3.The Sub Registrar,
Joint I Sub Registrar Office,
Namakkal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of he third respondent relating to the impugned order / refusal check slip in RFL/1 dated 28.12.2022 pertaining to the sale deed for registration of the petitioner in TP/137387574/2022 Quash the same and to issue direction to the 1st respondent to register the sale deed by permitting the petitioner to take fresh



toke and time slot for registration of the sale deed of the petitioner in TP/137387574/2022 dated 28.12.2022.

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For Petitioners : Mr.S.Muthukumar,
for Mr.G.Punniakoti

For Respondents : Mr.E.Sundaram,
Government Advocate

ORDER

The impugned refusal check slip issued by the third respondent in proceedings dated 28.12.2022 is under challenge in the present writ petition.

2. The vendor to the petitioners purchased the subject property through public auction conducted by the Federal Bank Limited under the SARFAESI Act on 08.04.2022 for a sale consideration of Rs.65,55,500/-. The vendor to the petitioners presented the sale certificate for registration, which was registered as document No.1614 of 2022. The petitioners presented the sale deed for registration. The third respondent has returned the document on the ground that the subject property was attached in the Court of Principal District Judge, Namakkal, wherein the Equittas Small Finance Bank Limited and Goyal Gas Company Limited are plaintiffs in Arbitration cases No.318 & 320 & 322 of 2021 and the order of attachment was issued in I.A.No.40 of



2021 in ARB.No.318 of 2021, I.A.No.42 of 2021 in ARB.No.320/2021 & I.A.No.44 of 2021 in ARB.No.322/2021 on 23.12.2021. Since the subject

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property is under attachment, pursuant to the orders of the Principal District Court at Namakkal in the arbitration proceedings, the registering authority refused to register the sale deed presented by the petitioners.

3. The learned counsel for the petitioners made a submission that the petitioners are bonafide purchasers and they are no way connected with the loan borrowed by their vendor or by any other person prior to the public auction conducted by the Federal Bank.

4. The learned Government Advocate made a submission that the principle of caveat emptor would be applicable for the present case, since it is for the person to be alert while purchasing the immovable property. When the property is already under attachment pursuant to the orders of the Court in an arbitration proceedings, under section 22B of the Registration Act, the registering authority has to refuse registration.

5. Section 22B of the Registration Act stipulates “document relating to transfer of immovable property by way of sale, gift, lease or otherwise, which is attached permanently or provisionally by a competent authority under the Central Act or State Act for the time being in force or any Court or Tribunal.”



Therefore, the attachment order, which has already been entered in the encumbrance register, was taken into consideration for the purpose of refusal of registration in respect of sale deed presented by the writ petitioners.

6. In view of the fact that the subject property is already under attachment on the file of the Principal District Court at Namakkal, the registering authority has returned the document invoking section 22B of the Registration Act.

7. This Court do not find any infirmity in respect of the orders passed. It is for the petitioners to lift the attachment in the manner known to law and thereafter, presented the document for registration in the manner contemplated.

8. With these observations, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

31.07.2023

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Index : Yes
Speaking order
Neutral Citation : Yes



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To

- 1.The Inspector General of Registration,
Santhome High Road, Mylapore,
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S.M.SUBRAMANIAM, J.

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