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W.P.No.8104 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.04.2023

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.8104 of 2023

Vaijayanthy Kabirdass

...Petitioner

Vs

1.The Official Liquidator,
High Court Madras,
Office of the Official Liquidator,
No.29, 'Corporate Bhavan',
2nd Floor, Rajaji Salai,
Chennai – 600 001.

2.The Sub Registrar,
SRO – Periamet,
Periamet,
Chennai – 600 003.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the second respondent in the records of the impugned refusal slip in RFL/Periamet/11/2023 on the file of Sub Registrar Office, Periamet dated 09.02.2023 and quash the same as illegal and consequently direct the second respondent to register the receipt deed for the cancellation of mortgage deed presented by the



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petitioner without insisting the signature of the first respondent herein and to remove the entry of encumbrance of mortgage attachment for the property situated in Old R.S. No.133/14, R.S. No.133/14D, presently in R.S. No.133/71, Kilpauk Garden Road, Kilpauk, Egmore Taluk.

For Petitioner : Mr.T.N.Rajagopalan
for Mr.S.V.Vijay Prashanth

For Respondents : Mr.S.R.Sundar for R1

Mr.Yogesh Kannadasan,
Special Government Pleader for R2

ORDER

Heard Mr.T.N.Rajagopalan, representing for Mr.S.V.Vijay Prashanth, learned counsel for the petitioner, Mr.S.R.Sundar, learned counsel for the first respondent and Mr.Yogesh Kannadasan, learned Special Government Pleader for the second respondent.

2.The writ petition has been filed, challenging the order dated 09.02.2023, passed by the second respondent in the impugned Refusal Slip in RFL/Periamet/11/2023 and seeking for a direction to the second respondent to register the Receipt Deed for cancellation of the Mortgage Deed, presented by the petitioner and to remove the entry of encumbrance of mortgage attachment for the property, situated in Old



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R.S. No.133/14, R.S. No.133/14D, presently in R.S. No.133/71, Kilpauk Garden Road, Kilpauk, Egmore Taluk.

3.The grievance of the petitioner is that though her father S.R.Kabirdass had mortgaged a property, situated in Old R.S. No.133/14 and New R.S. No.133/14D with M/s.Muthialpet Benefit Fund Limited and the same was already closed on 01.07.1992, the encumbrance of the mortgage is still reflected in the register of the second respondent herein. When they had sought to register the receipt of relinquishment of the mortgage, the second respondent through the impugned Refusal Check Slip dated 09.02.2023, had informed that the mortgagor's signature is not found in the receipt and refused registration. In Company Applications in C.A. Nos.156 to 158 of 2021 in Company Petition No.156 of 2005, when M/s.Muthialpet Benefit Fund was wound up, the first respondent herein was appointed as a Provisional Liquidator. Through a letter dated 12.05.2022, the first respondent had also addressed to the Sub Registrar confirming that the mortgage created in the subject property on 27.02.1986 was closed on 01.07.1992 and that since the loan was fully



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repaid, the mortgage deed was also cancelled by the company in liquidation.

4.This Court is of the view that the present letter of the first respondent herein dated 12.05.2022 could be registered by the second respondent herein in view of Rule 11(i)(e) of the Registration Rules, which provides that the Registration Office should maintain a file Book 1, in which, all communications received from officers of other departments, intimating the cancellation, modification or rectification of transactions, evidenced of papers previously filed, shall be filed. Likewise, the second respondent herein also cannot insist the first respondent herein to be present at the time of registration in view of the exemption granted under Section 88 of the Registration Act exempting the Official Liquidator to appear in person at the registration office in connection with the registration.

5.In the light of the above observations and findings, the impugned Refusal Slip in RFL/Periamet/11/2023 dated 09.02.2023, issued by the Sub Registrar Office, Periamet is quashed and the petitioner is granted



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liberty to present the letter of the Official Liquidator of the High Court Madras dated 12.05.2022 before the second respondent herein as expeditiously as possible and on receipt of the same, the second respondent shall register the same as indicated in the present order, within a period of two weeks from the date of receipt of a copy of this order.

6. With the above observations and findings, the writ petition stands allowed. No costs.

13.04.2023

Index: Yes/No

Neutral Citation: Yes/No

Speaking order/Non-speaking order
vga

To

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2. The Sub Registrar,
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M.S.RAMESH,J.

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