



W.P.No.24297 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 21.11.2023

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

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Cholamandalam Investment and Finance Co. Ltd.,  
Registered Office at No.719,  
N.S.C. Bose Road, Parrys,  
Chennai-600 001,  
Represented by its Senior Manager,  
Mr.K.Thiyagarajan, S/o Kandasamy

.. Petitioner

Vs.

1. Inspector General of Registration,  
100, Santhome High Road, Mullima Nagar,  
Mandavelipakkam,  
Raja Annamalai Puram,  
Chennai, Tamil Nadu-600 028.
2. Sub-Registrar,  
Sub-Registrar Office,  
Kanchipuram District.
3. Inspector of Police,  
Economic Offences Wing,  
Kanchipuram District.
4. Sakthivel.S., S/o Siva.R,  
No.42, Anna Quarters,



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Orikkai Post, Kanchipuram-631 502.

.. Respondents

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Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus to call for the records of the entire proceedings culminating in the impugned Notice bearing No.Na.Ka.No.2829/Aa.Pa.Pee/2023, and dated 14.07.2023 issued by the second respondent, to quash the same and consequently direct the second respondent to forthwith register the Sale Certificate, dated 31.03.2023 executed by the petitioner in favour of the fourth respondent, within a stipulated time frame.

For petitioner : Mr.Kishore Balasubramanian

For respondents: Mr.Yogesh Kannadasan, Spl.G.P. for RR-1 and 2

Mr.S.Sugendran, Addl.,P.P. for R-3

Notice returned unserved.Proof of Service of notice filed - R4

### ORDER

Though the petitioner has filed the Writ Petition only challenging the refusal check slip, no doubt, learned counsel for the petitioner submitted that the fourth respondent is only an auction-purchaser having purchased the property(ies) in question under the provisions of the SARFAESI (Securitisation and Reconstruction of Financial Assets and Enforcement of

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Security Interest) Act, which is a special Enactment, which is also passed under the Special circumstances in respect of loan matters and the matters pertaining thereto, etc. Therefore, the SARFAESI Act will prevail over all other Acts relating to the secured debts. It is to be noted that this Court and even the Supreme Court, time and again, in a catena of decisions, gave a direction that the sale certificate has to be registered without insisting on any other formalities. Except Section 89(4) of the Book I of the Registration Act, if the property documents are otherwise in order, they (Sub-Registrar) had to register the document in question. The reason for issuance of refusal check slip in this case is that the fourth respondent has given a letter/complaint to the third respondent/Sub-Registrar not to register the property in question.

2. It is alleged on behalf of the third respondent/Inspector of Police that the borrower had cheated the investors and they have made complaint which is/was under investigation and it is also alleged that the subject property was purchased by the borrower out of the funds cheated from the public. Subsequently, within a short proximity of time, they had



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mortgaged the property with the writ petitioner/Finance Company and they have also not repaid the amount which was brought for sale by exercising the provisions of SARFAESI Act and the present Writ Petitioner is a Finance Company and the fourth respondent is the auction purchaser.

3. It is the further allegation of the third respondent-Sub-Registrar that the allegations against the borrower/mortgagor of the writ petitioner-finance company is serious in nature.

4. Therefore, the third respondent herein/Inspector of Police is directed to investigate into the matter and find out as to whether there is any nexus between the borrowers/mortgagors and petitioner/Finance Company and knowing fully well that in order to safe-guard the borrowers and to escape from the liability, as if he has lent money and subsequently, and purposely, the amount was allowed to be over-due and the property was brought on sale.

5. Further, the third respondent/Inspector of Police is directed to



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find out as to whether the borrowers purchased the mortgaged property out of the cheated money and subsequently, in order to escape from the liability, they mortgaged the property.

6. Under the above facts and circumstances and the submissions made by the learned counsel on both sides, coupled with the above directions issued to the third respondent, the third respondent-Inspector of Police is directed to file a report after investigating in the matter and the second respondent/Sub-Registrar shall not register the sale certificate issued in respect of the property in question.

7. This Court reiterates that the third respondent-Inspector of Police is directed to conduct investigation in the matter, particularly with regard to the nexus between the petitioner/Finance Company and the borrower and the auction purchaser being the fourth respondent and whether there is any scam between them in the matter directly or indirectly.

8. Upon hearing learned counsel on both sides and on a perusal of



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the facts and circumstances of the case, coupled with the legal aspects of the matter, and also the records annexed in the typed set of papers, this Court does not find any erroneous view taken by the second respondent while issuing the impugned notice, coupled with the fact that there is no illegality or infirmity in the impugned order passed by the respondents.

9. Thus, this Court does not find any reason to quash/set-aside the impugned order/sale certificate so issued. The Writ Petition is dismissed with the above observations and directions. There shall be no order as to costs.

21.11.2023

CS

To

1. Inspector General of Registration,  
100, Santhome High Road, Mullima Nagar,  
Mandavelipakkam,  
Raja Annamalai Puram,  
Chennai, Tamil Nadu-600 028.
2. Sub-Registrar,  
Sub-Registrar Office,  
Kanchipuram District.



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3. Inspector of Police,  
Economic Offences Wing,  
Kanchipuram District.

4. The Public Prosecutor,  
High Court, Madras.

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