



WEB COPY

WP No.24969 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-09-2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

WP No.24969 of 2023

1.Phoenix ARC Private Limited,
Trustee of Phoenix Trust FY 22-16,
5th Floor, Dani Corporate Park,
158, CST Road, MMRDA Area,
Kalina, Santacruz East,
Mumbai,
Maharashtra – 400 098.

2.L&T Finance Limited,
Represented by its Authorised Signatory,
No.62, 6th Floor, KGN Towers,
Ethiraj Salai,
Egmore,
Chennai-600 008.

... Petitioners

Vs.

1.The District Registrar,
Virudachalam,
Tamil Nadu-606 061.

2.Sub Registrar,
257, Cuddalore Main Road,
Taluk Office Campus,
Virudachalam,
Tamil Nadu-606 061.

... Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the first respondent to consider the representation dated 08.03.2023 of the first petitioner and pass orders directing the second respondent to register the Assignment Agreement dated 29.03.2022 executed under Section 5 of SARFAESI Act.

For Petitioner-1	: Mr.Om Prakash, Senior Counsel for M/s.Aishwarya S.Nathan
For Petitioner-2	: Mr.Srinath Sridevan, Senior Counsel for M/s.Aishwarya S.Nathan
For Respondents	: Mr.T.Arunkumar, Additional Government Pleader.

ORDER

The Writ of Mandamus has been instituted to direct the first respondent to consider the representation dated 08.03.2023 of the first petitioner and pass orders, directing the second respondent to register the Assignment Agreement dated 29.03.2022 executed under Section 5 of SARFAESI Act.



2. It is not in dispute that Assignment Agreement between the petitioners was presented for registration before the second respondent under the provisions of the Registration Act. The Registering Authority verifying the particulars and the details provided in the Assignment Agreement, presented the same for registration. The second respondent found that objectionable properties are included in the schedule of properties mentioned in the Assignment Agreement.

3. In this context, the learned Additional Government Pleader, appearing on behalf of the first respondent, made a submission that Justice Lodha Committee appointed by the Hon'ble Supreme Court of India in connection with PACL granted under the stage of registration of document in respect of the properties in the matter of PACL attached the tainted properties before Hon'ble Justice Lodha Committee. In respect of those properties attached by Hon'ble Justice Lodha Committee, No Objection Certificate from the Committee is required for the purpose of transfer of any property or execution of document.



4. The impugned Refusal Check Slip was issued by the Registering Authority mentioning about the attached properties and accordingly, the documents presented by the petitioners were returned along with the impugned Refusal Check Slip.

5. The learned Senior Counsel, appearing on behalf of the petitioners, mainly contended that decision has been taken by the petitioners to delete the attached properties in the matter of PACL by Hon'ble Justice Lodha Committee and they will re-present the document for registration.

6. In this regard, the petitioners have filed a Memo stating that “the petitioners are prepared to delete the properties i.e., Survey Numbers which are subject of the Refusal Slip dated 24.01.2023, without prejudice to separately enforcing their rights as regards those properties, in accordance with law”.

7. In respect of the attached properties in the matter of PACL, the petitioners are at liberty to approach Hon'ble Justice Lodha Committee or the Hon'ble Supreme Court of India, as the case may be and in respect of



all other properties, which all are assigning the subject mater of Assignment Agreement, the petitioners are at liberty to get back the documents presented from the Registering Authority and re-present the same by deleting the attached properties, enabling the Registering Authority to proceed with registration by following the procedures as contemplated.

8. In view of the facts and circumstances, the second respondent-Registering Authority is directed to return the pending Document No.34/22 to the petitioners and on receipt of the same, the petitioners shall re-present the document by deleting the Survey Number as stipulated in the Refusal Check Slip dated 24.01.2023 issued by the Registering Authority and re-present the same. On such re-presentation, the Registering Authority shall proceed with the registration by following the procedures as contemplated under the Registration Act. It is needless to state that applicable stamp duty under the provisions of the Statutes are to be recovered by following the procedures. The said exercise shall be completed, within a period of two weeks from the date of receipt of a copy of this order.



9. Accordingly, the present writ petition stands disposed of.

However, there shall be no order as to costs.

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Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

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S.M.SUBRAMANIAM, J.

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