



W.P.No.33833 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.33833 of 2022

Sundaram Home Finance Limited
(Formerly known as Sundaram BNP Paribas
Home Finance Ltd),
Registered Office, No.21, Patullos Road,
Chennai – 600 002.
Represented by its Head-Legal Receivables,
Mr.Sunil B.Shankar

... Petitioner

Vs.

1.The Inspector General of Registration
Sathome High Road, Raja Annamalaipuram,
Chennai 600 028

2.The Sub Registrar
Athur, HJX2 + 8J5,
Salem-Cuddalore Main Road,
Pungaradi Puthur, Salem 636 102

3.The Tamil Nadu Mercantile Bank,
No. 126, Fort Main Road,
Shevapet, Salem 636 002.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus, calling for the records relating to impugned order passed in Na. Ka. No. 439 of 2022, dated 07.10.2022 passed by the 2nd respondent and to quash the same as



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illegal and consequently directing the 2nd Respondent to register the sale Certificate dated 07.10.2022 presented by the Authorized officer of Sundaram Home Finance Limited and Petitioner herein and to release the same.

For Petitioner : Mr.K.Sukumar

For Respondents 1 & 2 : Mr.R.Neelakandan
Additional Advocate General
Assisted by
Mrs. M.Keerthika,
Government Advocate

For Respondent 3 : Mr.Purujit Narayanan

ORDER

The writ on hand has been instituted to quash the order passed by the second respondent registering authority declining the request of the petitioner to register the sale certificate issued by the authorised officer.

2. The petitioner is a finance company and presented a sale certificate for registration. The registering authority / second respondent returned the document on the ground that the subject property has already been attached in favour of the third respondent Tamil Nadu Merchantile Bank vide I.A.No.3221 of 2019 in O.A.No.677 of 2019 on the file of the Debt Recovery Tribunal at Coimbatore.



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3. The learned counsel for the petitioner made an attempt to distinguish between the mortgage and non-mortgage. As far as the writ petitioner is concerned, they are the secured creditors as the subject property is mortgaged. Thus, their right need not be deprived and therefore, the impugned order passed by the registering authority is perverse and not in consonance with section 22-B of the Registration Act.

4. The learned counsel for the third respondent/Tamil Nadu Merchantile Bank raised an objection by stating that they are also entitled to recover the loan amount due to them and the attachment order passed by the Debt Recovery Tribunal is in force and thus, the registering authority has rightly refused to register the sale certificate. The third respondent is claiming second charge over the property and admitted the fact that it is a non mortgage property.

5. The learned Additional Advocate General appearing on behalf of the State made a submission that the scope of section 22-B is unambiguous. Once there is an attachment by a statutory body, then the registering authority is empowered to refuse the document presented for



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registration. Thus, there is no infirmity as such and the writ petition is to be rejected.

6. Section 22-B contemplates refusal to register forged documents and other documents prohibited by law. Sub section 3 contemplates, the 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 any Central Act or State Act for the time being in force or any Court or Tribunal.

7. The ingredients under section 22-B(3) unambiguously states that the registering authority is empowered to refuse document, if there is an attachment either permanently or provisionally by a competent authority under Central Act or State Act or the Tribunal. In the present case, the Debt Recovery Tribunal attached the subject property, which is not in dispute between the parties.

8. The registering authority is unconnected with the disputed issues between the parties. Thus, the registering authority has no powers or jurisdiction to consider the merits involved in the case of the petitioner or



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otherwise. It is for the parties to resolve the same either before the Debt Recovery Tribunal or before the competent forum as the case may be. Once the document is presented for registration, the registering authority on verification if found that the said property is under attachment as contemplated under section 22-B of the Act, he is empowered to refuse for registration and in the case present, the registering authority has rightly exercised his powers conferred under section 22-B of the Act and there is no infirmity as such. Thus, the petitioner is at liberty to workout their remedy in the manner contemplated under law.

9. With these observations, the writ petition stands dismissed. No costs.

26.07.2023

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Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No



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To

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S.M.SUBRAMANIAM. J.,

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