



W.P.No.9002 of 2014

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2023

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.9002 of 2014

and

M.P.No.1 of 2014

M/s.Balaji Enterprises
Rep.by Managing Partner B.Balaji,
No.2/77, Karadivavi,
Puliampatti Post,
Palladam Taluk,
Tiruppur District.

... Petitioner

versus

- 1.The Sub-Register,
No.16, Mangalam Road,
Palladam,
Tiruppur District.
- 2.The Joint Commissioner,
H.R and C.E.Department,
Coimbatore – 641 018.
- 3.The Assistant Commissioner,
H.R and C.E.Department,
Tiruppur.



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4. The Authorised Officer,
Axis Bank Ltd.,
Southern Recovery Cell,
2nd Floor, Karumuthu Nilayam,
No.192, Anna Salai,
Chennai – 600 002.

.....Respondents

[R2 to R4 impleaded as per the order of this Court dated
23.06.2014 in M.P.No.2 of 2014 in W.P.No.9002 of 2014]

Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Mandamus directing the respondent to register the sale certificate dated 09.07.2013 presented by the petitioner on 12.07.2013 and kept as Pending Document No.17/2013 in the office of the first respondent with respect of the properties comprised in S.F.No.519/1A measuring an extent of 3.33 acres out of 5.05 acres (2.04.5 Hectares), S.F.No.519/1D, measuring an extent of 0.19 acres out of 0.38 acres (0.15.5 Hectares) S.F.No.519/1E, measuring an extent of 0.0 ½ acres out 0.01 acres (0.00.5 Hectares) and S.F.No.519/2D, measuring an extent of 0.09 acres out of 0.30 acres (0.12.0 Hectares) totally an extent of 3.61 ½ acres, situated at Pongalur Village, Tirupur Taluk and District without insisting upon NOC from HR and CE Department and return the same to the petitioner within a stipulated time to be fixed by this Court.

For Petitioner : Mr.M.S.Krishnan

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Senior Counsel for
M/s.Sarvabhauman Associates

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader for R1

Mr. N.R.R.Arun Natarajan
Special Government Pleader for R2 and R3

No appearance for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Mandamus, directing the respondent to register the sale certificate dated 09.07.2013 presented by the petitioner on 12.07.2013 and kept as Pending Document No.17/2013 in the office of the first respondent with respect of the properties comprised in S.F.No.519/1A measuring an extent of 3.33 acres out of 5.05 acres (2.04.5 Hectares), S.F.No.519/1D, measuring an extent of 0.19 acres out of 0.38 acres (0.15.5 Hectares) S.F.No.519/1E, measuring an extent of 0.0 ½ acres out 0.01 acres (0.00.5 Hectares) and S.F.No.519/2D, measuring an extent of 0.09 acres out of 0.30 acres (0.12.0 Hectares) totally an extent of 3.61 ½ acres, situated at Pongalur Village,



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Tirupur Taluk and District without insisting upon NOC from "Hindu Religious and Charitable Endowment Department" [hereinafter referred to as "HR and CE Department"] and return the same to the petitioner within a stipulated time to be fixed by this Court.

2. It is the claim of the petitioner-Company that the petitioner emerged as a successful bidder in the auction conducted by the Authorised Officer of the Axis Bank Limited, Southern Recovery Cell, Chennai and was favoured with a Sale Certificate for the subject properties purchased by the petitioner in the said auction under the SARFAESI Act, 2002 and he has also taken the possession of the said properties. While so, the petitioner on 12.07.2013 presented the Sale Certificate for registration before the first respondent with necessary stamp duty for a sum of Rs.4,45,750/- and registration charges for a sum of Rs.67,250/-. However, the first respondent, without registering the document kept it as pending document No.17/2013 and refused to register the same for want of "No Objection Certificate" from HR and CE Department, which is not at all required for registration of the Sale Certificate issued under the provisions of the SARFAESI Act, 2002.



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3. It is the further claim of the petitioner that "No Objection Certificate" from HR and CE Department is not at all required for registering the Sale Certificate issued under the provisions of the SARFAESI Act, 2002. In spite of repeated requests made by the petitioner, the first respondent kept the document as pending. Hence, the petitioner is before this Court by way of filing the writ petition.

4. Heard the learned Senior Counsel appearing for the petitioner and the learned Special Government Pleader appearing for the first respondent and the learned Special Government Pleader (HR & CE) appearing for respondents 2 and 3 and perused the materials available on record.

5. It is seen from the records that the petitioner is the successful bidder in the auction conducted by the Authorised Officer of the Axis Bank Limited, Southern Recovery Cell, Chennai/fourth respondent herein, by exercising the power of sale conferred on him under the SARFAESI Act, 2002, and was favoured with a Sale Certificate for the subject properties



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purchased by the petitioner. When the said Sale Certificate was presented for registration, the first respondent refused to register the same for one reason or the other. However, subsequent to latest developments of law, any Sale Certificate issued under SARFAESI Act, 2002 has to be registered by the Registrar without any reason.

6. The fact remains that the Sale Certificate was issued by the fourth respondent in favour of the writ petitioner, which was presented before the first respondent for registration as early as on 12.07.2013, and so far, the first respondent has not registered the same till date. As per Section 89(4) of the Registration Act, 1908, if the Bank issued Book-I (Form) to the Registrar along with the Sale Certificate, the Registrar is bound to register the Sale Certificate.

7. For the foregoing reasons, the first respondent is directed to register the Sale Certificate in favour of the writ petitioner, within a period of one month from the date of receipt of a copy of this order.



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8. Accordingly, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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

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- 2.The Joint Commissioner,
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