



WP(MD)No.13215 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

**WP(MD)No.13215 of 2023
and
WMP(MD)No.11170 of 2023**

The Authorized Officer,
Indian Bank, Sivakasi Branch,
No.1351, Gnanagiri Road,
Sivakasi – 626 189,
Virudhunagar District.

... Petitioner

v.

1.The Inspector General of Registration,
Registration Department, 100,
Santhome High Road, Chennai – 600 122.

2.The District Registrar (Administration),
District Registrar Office,
Virudhunagar District.

3.The Sub Registrar, Sub Registrar Office,
Sivakasi – 626 189.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the impugned order passed by the 3rd respondent in check slip Refusal Number 1/2023 dated 12.05.2023, quash the same as illegal and consequently direct the 3rd respondent to register the Sale Certificate dated 19.01.2023 presented by the petitioner under Section 89(4)



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of the Registration Act, 1908 by accepting the registration fees, stamp duty on the value of sale certificate in respect of the property in Southern portion of plot no.57 measuring 1006.25 square feet, comprised in S.No.417/2 A1A1A, Sidhurajapuram Village, Sivakasi.

For Petitioner : Mr.M.Senthilkumar

For Respondents : Mr.K.Balasubramani,
Additional Government Pleader for R1 to R3

ORDER

Heard both sides.

2.The petitioner took proceedings under SARFAEASI Act. The property was sold. One Habeebullah purchased the property in the e-auction sale. Certificate of sale was issued. When it was presented for registration before the third respondent, the third respondent declined to entertain the same. The third respondent informed the petitioner that the property in question is under attachment. To that effect, the impugned refusal check slip was issued. Challenging the same, this writ petition came to be filed.

3.The learned counsel for the petitioner contended that the petitioner as secured creditor is entitled to property. He pointed out that while the



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attachment was made on 06.05.2021, the mortgage was made on 19.12.2018. Since the mortgage was made in favour of the petitioner prior in point of time, the petitioner's rights as secured creditor will prevail over the attachment. I would have straightaway allowed the writ petition. Only one impediment comes in the way. The petitioner at whose instance attachment is made is not before me. Even while upholding the contention of the petitioner, I remit the matter to the third respondent. The third respondent will issue notice to the person at whose instance the attachment was made. The scope of enquiry to be conducted is to see as to whether the mortgage made in favour of the petitioner is prior in point of time. If that be so, the sale certificate shall be registered subject to the fulfilment of the other usual formalities. The issuance of notice to the plaintiff in the suit as well as the conclusion of enquiry shall be finished within a period of three weeks from the date of receipt of copy of this order.

4.This writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

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Index : Yes / No
Internet : Yes / No
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G.R.SWAMINATHAN, J.



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