



W.P(MD)No.19195 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19195 of 2023

M/s.M.G.Enterprises, Partnership Firm,
represented by its Managing Partner,
P.Mani Gounder,
S/o.Pongiyanna Gounder
No.39, Chinna Muthu 3rd Street,
Ediyankattuvalasu,
Erode-638 011.

... Petitioner

Vs.

The Joint Sub Registrar,
Madurai North,
Madurai.

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondent to release the Sale Certificate registered in Doc.No. P70/2023 dated 02.06.2023 executed in favour of the petitioner in pursuant to the receipt No. 4382/2023 for releasing the above document.

For Petitioner : Mr.B.Jameelarasu

For Respondent : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.



W.P(MD)No.19195 of 2023

WEB COPY

2. The Punjab National Bank had advanced loan in favour of one R.Krishnasamy S/o.Ramamoorthy. The petition mentioned property was offered as collateral security. The borrower committed default. The proceedings were initiated under SARFAESI Act by the secured creditor. The petition mentioned property was brought to sale on 08.12.2022. The petitioner participated and their bid was successful. A sum of Rs.8,01,00,000/- was remitted by the petitioner and the sale certificate was issued by the secured creditor in favour of the petitioner on 02.06.2023. The sale certificate was presented for registration before the respondent on 02.06.2023. Even though the basic registration formalities were complied with by the respondent, the registered sale certificate was not released by the respondent. That led to filing of this writ petition.

3. The respondents have filed counter affidavit and also typed set of papers. The stand taken in the counter affidavit is that while depositing the original title deed, the borrower had submitted a missing certificate said to have been issued by the Inspector of Police, Thiruparankundram Police Station, Madurai City. The registering authority received information that this missing certificate was ostensibly not issued by the concerned authority. Since an enquiry is pending in this regard, the respondent is withholding the document in question.



W.P(MD)No.19195 of 2023

WEB COPY

4. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

5. The learned Special Government Pleader reiterated the stand set out in the counter affidavit.

6. I carefully considered the rival contentions and went through the materials on record. The only issue that calls for consideration is whether the respondent is justified in withholding the registered sale certificate. The reason set out in the counter affidavit is patently un-sustainable. If there is any illegality vitiating the sale process, then and then alone, the respondent would be justified in not registering the sale certificate. In this case, it is beyond dispute that Krishnasamy had mortgaged the petition mentioned property by deposit of title deed. The borrower had obviously lost the parent deed. That was the issue between the borrower and the lending institution. In order to reassure title, the borrower had produced the missing certificate for satisfaction of the secured creditor. The secured creditor had chosen to act on the same and issued loan to Krishnasamy. The loan account became an NPA. Thereupon,



W.P(MD)No.19195 of 2023

SARFAESI proceedings were initiated and the property itself was sold in public auction. The petitioner has purchased the same. All that the petitioner wants is registration of the sale certificate and its release. The registering authority need not concern himself with the genuineness of the missing certificate produced by the borrower at the time of obtaining loan. This Court also should be mindful of the fact that the proceedings under the SARFAESI Act will have an overriding effect. The respondent is directed to complete the balance formalities, if any and issue the registered sale certificate to the petitioner without any further delay.

7. The Writ Petition is allowed. No costs.

27.11.2023

Index : Yes / No

Internet : Yes/ No

rmi

NOTE:Issue Order Copy on 30.11.2023.

To

The Joint Sub Registrar,
Madurai North,
Madurai.



WEB COPY



W.P(MD)No.19195 of 2023

G.R.SWAMINATHAN, J.

rmi

W.P(MD)No.19195 of 2023

27.11.2023