



W.P.(MD)No.22702 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.22702 of 2023

and

W.M.P.(MD)No.18967 of 2023

1. V.Srinivasan
2. A.Meganathan

... Petitioners

versus

The Sub Registrar,
(in the cadre of District Registrar),
Thallakulam,
Madurai.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned refusal check slip in RFL/Thallakulam/8/2023 dated 11.04.2023 issued by the respondent and quash the same and consequently direct the respondent to file the sale certificate dated 06.05.2022 issued by the Administrative Committee of this Court in pursuant to the order passed in W.P.No. 8084 of 2017 in Book No.1 of the respondent's office within the time fixed by this Court.



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For Petitioner : Mr.R.Arumugam

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

ORDER

The petitioners have purchased a residential plot to an extent of 1,480 sq. ft situated at Door No.581, West 4th Street, K.K.Nagar, Thallakulam, Madurai, through a court auction conducted by the Administrative Committee appointed by this Court in W.P.No.8084 of 2017, for which, a sale certificate was issued on 06.05.2022 by the Secretary of the Committee. A copy of the sale certificate was also sent by the Committee to the respondent/the Sub Registrar, Thallakulam, Madurai for registering the same in Book No.I.

2. According to the petitioners, as per Section 89(4) of the Registration Act, the respondent is duty bound to file it in Book No.I and disclose the same in the encumbrance register. But, the respondent, on 11.04.2023, has returned the same by referring to a



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G.O.Ms.No.28 dated 23.03.2023 and directed the petitioners to remit 11% as registration fee. As against the order of refusal to register the same under Section 89(4) of the Registration Act, the present writ petition has been filed.

3. The learned counsel appearing for the petitioners submits that this is a property which has been purchased through a court auction and the Committee which has been appointed by this Court has also issued the sale certificate on 06.05.2022 even before the issuance of G.O.Ms.No.28 dated 23.03.2023. However, the respondent has failed to act upon it and now, by referring to G.O.Ms.No.28 dated 23.03.2023 has refused to register the sale certificate. The learned counsel further submits that G.O.Ms.No.28 dated 23.03.2023 has also been stayed by this Court in W.P.(MD)No.8431 of 2023, dated 13.04.2023. He has also relied on a Judgment of the Hon'ble Supreme Court passed in Special Leave to Appeal (C) No.16949/2022 dated 11.11.2022.



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4. The learned Additional Government Pleader submits that the application for registering the sale certificate was submitted on 11.04.2023, at that point of time, G.O.Ms.No.28 dated 23.03.2023 was in force and therefore, by referring this G.O., the impugned order has been passed.

5. The sale certificate has been issued on 06.05.2022 and the same has been duly communicated by the Secretary of the Committee appointed by this Court to the respondent.

6. In the case of ***Special Leave to Appeal (C) No.16949/2022 dated 11.11.2022 (Inspector General of Registration and another vs. G.Madurambal and another)***, which has been relied upon by the learned counsel for the petitioner, the Hon'ble Apex Court has observed as follows:

“It is logically so as this issue has been repeatedly settled and if one may say, a consistent view followed for



*the last 150 years. We may refer to the judgments by the Madras High Court in the Board of Revenue No.2 of 1875 (In Re: Case Referred) dated 19.10.1875 opining that a certificate of sale cannot be regarded as a conveyance subject to stamp duty, by the Allahabad High Court in Adit Ram v. Masarat-un-Nissa opining that a sale certificate is not an instrument of the kind mentioned in clause (b) of Section 17 of Act III of 1877 and is not compulsorily registrable and this Court's view in **Esjaypee Impex Pvt. Ltd. v. Asst. General Manager and Authorised Officer, Canara Bank** opining that the mandate of law in terms of Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908 only required the Authorised Officer of the Bank under the SARFAESI Act to hand over the duly validated Sale Certificate to the Auction Purchase with a copy forwarded to the Registering Authorities to be filed in Book I as per Section 89 of the Registration Act and order of this Court in M.A. No.19262/2021 in SLP(C) No.29752/2019 dated 29.10.2021 opining that once a direction is issued for the duly validated certificate to be issued to the auction purchaser with a copy forwarded to the registering authorities to be filed in Book I as per Section 89 of the Registration Act, it has the same effect as*



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registration and obviates the requirement of any further action.”

7. In view of the above, this writ petition is disposed of with a direction to the respondent to register the Sale Certificate dated 06.05.2022 as per Section 89(4) of the Registration Act, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

26.09.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

The Sub Registrar,
(in the cadre of District Registrar),
Thallakulam,
Madurai.



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B.PUGALENDHI, J.

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