



W.P(MD)No.23455 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.11.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.23455 of 2023

M/s.Sun Phoenix Newsprint Pvt Ltd,
Represented by its Director,
A.S.Keshav.

... Petitioner

Vs.

1.The Tahsildar,
Office of Tahsildar,
Devakottai Taluk,
Sivagangai District.

2.Vasanti Saravanan

... Respondents

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, the Tahsildar of Devakottai to consider the representation dated 05.09.2023 and thereby transfer the patta in survey Nos. namely 332/3, 332/4, 332/5, 333/1, 334/7 and 335/9 from the name of Mrs.Vasanti to M/s.Sun Phoenix Newsprint Private Limited.



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For Petitioner : Mr.Aravind Subramaniam, Senior Counsel,
For Ms.V.Akshaya Kamala.

For Respondents : Mr.C.Satheesh,
Government Advocate for R1.

ORDER

Heard the learned senior counsel for the writ petitioner and the learned Government Advocate for the first respondent.

2.The prayer in the writ petition is for directing the Tahsildar, Devakottai to effect mutation of patta in respect of the petition mentioned survey numbers in favour of the writ petitioner.

3.Notice was ordered. When the matter was taken up for hearing, the learned Government Advocate on written instructions submitted that the petitioner's request will have to be rejected. This is because the petition mentioned lands have already been attached by the Commercial Taxes Department.



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4.It is seen that the petitioner had purchased the petition mentioned lands along with other lands in an auction held under the provisions of SARFAESI Act. The erstwhile owner of the lands had availed finance facility from Canara Bank on the strength of the petition mentioned lands and other lands. The auction was held in the year 2018. Copy of the certificate of sale issued by the authorised officer of Canara Bank dated 10.10.2018 has been enclosed in the typed set of papers. The petition mentioned survey numbers are included in the said certificate of sale.

5.It is true that the lands were attached by Commercial Taxes Department towards their dues on 28.03.2013. But the security interest was created in favour of Canara Bank much earlier. It is well settled that the rights of the secured creditor will prevail. Therefore, citing the attachment effected by the Commercial Taxes department, the Tahsildar, Devakottai cannot refuse to effect mutation.

6.The first respondent is therefore directed to pass order on the petition mentioned representation dated 05.09.2023 within a period of



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four weeks from the date of receipt of a copy of this order in the light of what has been set out in this order.

7.This writ petition is allowed accordingly. No costs.

02.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

The Tahsildar,
Office of Tahsildar,
Devakottai Taluk,
Sivagangai District.



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G.R.SWAMINATHAN, J.

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