



W.P(MD)No.24824 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 13.10.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.24824 of 2023

and

W.M.P.(MD)Nos.21013 and 21014 of 2023

A.Sahaya Selvaraj

... Petitioner

Vs.

1.The Deputy Registrar of Cooperative Societies,
Madurai Circle, Madurai 625 001.

2.M/s.Sheela Rani Textiles Ltd.,
Rep. by its Managing Director,
Samayanallur Post,
Madurai 625 402.

3.The Branch Manager,
IDBI Bank Ltd.,
No.115, Anna Salai,
Saidapet,
Chennai 600 015.

4.The Branch Manager,
Ratnagar Bank Ltd.,
One India Bulls Conter,
Tower 2, 6th Floor,
841, Senapati Bapat Marg,
Lower Parcel (West),
Mumbai 400 013.



W.P(MD)No.24824 of 2023

5.Ramachandran

6.K.Rathinam

7.M/s.Arise Investments and Capital Ltd.,
A Public Limited Company,
“Daisy Plaza”,
Door Nos. 355-359, 6th Street,
Gandhipuram, Coimbatore 641 012.

8.The District Registrar (Admn),
Madurai South,
In the Capacity as Vice Chairman
of Registration Department.

9.N.Rajkumar

10.The Deputy Inspector General Of Registration,
Office of the Deputy Inspector General of Registration,
Integrated Registration Office,
Othakadai,Madurai.

... 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 relating to the impugned order of the respondent herein in Na.Ka.No.5201/B2/2022 dated 17.10.2022, quash the same and consequently direct the respondents 9 and 10 herein to conduct a detailed enquiry into the fraudulent transactions from 2013 insofar as the property of petitioner measuring 2.86 acres eastern portion out of total extent of 4.28 acres comprised in survey No.91/2, Thenur I-Bit Village, Madurai North Taluk, and pas final orders, within a reasonable time.



W.P(MD)No.24824 of 2023

For Petitioner : Mr.S.Srinivasa Raghavan

For Respondents : Mr.M.Prakash,
Addl. Govt. Pleader for R1, R8 & R10.
Mr.T.Palanisamy for R5 & R6.

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Government Pleader for the respondents 1, 8 and 10 and the learned counsel for the respondents 5 and 6.

2.The case of the petitioner is that the petition mentioned property was sold in a public auction by the first respondent on 29.03.2012. The second respondent is said to have mortgaged the said property in favour of the concerned cooperative society. The petitioner's vendor / Kathiravan purchased the property. The said Kathiravan sold the property in favour of the petitioner immediately thereafter. The property was originally a vacant site. The petitioner applied for approval and put up construction.



W.P(MD)No.24824 of 2023

3.While so, the vacant site was sold by invoking the provisions of SARFAESI Act by the third respondent. The respondents 5 and 6 purchased the property. The sale certificate was also duly registered on 26.12.2014. The petitioner states that he was unaware of these developments. Since the petitioner faced dispossession, he moved the eighth respondent for cancelling the registration of the sale certificate. The eighth respondent declined to do so. Questioning the same, the present writ petition came to be filed.

4.Since the transaction had taken place before the issuance of certain circulars by the Inspector General of Registration and before the introduction of Section 77-A of the Registration Act, I am not in a position to grant relief. The learned counsel for the petitioner would state that the entire SARFAESI proceedings are vitiated by fraud. According to him, the mortgage by the second respondent with the cooperative society was prior in point of time. The whole things turns on who was the first secured creditor. If the cooperative society was the first secured creditor, it will have priority and the petitioner's title could not have been undermined by the SARFAESI proceedings. If on the other



W.P(MD)No.24824 of 2023

hand, IDBI bank is the first secured creditor and creation of mortgage in its favour was prior in point of time, then the petitioner has no case.

These issues will have to be resolved only by the jurisdictional Debt Recovery Tribunal. Even while declining to entertain the writ petition as not maintainable, I grant liberty to the petitioner move the jurisdictional Debt Recovery Tribunal for setting aside the entire proceedings.

5. With this liberty to the petitioner, this writ petition is dismissed as not maintainable. No costs. Consequently, connected miscellaneous petitions are closed.

13.10.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

To:-

1. The Deputy Registrar of Cooperative Societies,
Madurai Circle, Madurai 625 001.
2. The District Registrar (Admn),
Madurai South,
In the Capacity as Vice Chairman
of Registration Department.



WEB COPY



W.P(MD)No.24824 of 2023

G.R.SWAMINATHAN, J.

ias

3.The Deputy Inspector General Of Registration,
Office of the Deputy Inspector General of Registration,
Integrated Registration Office,
Othakadai, Madurai.

W.P(MD)No.24824 of 2023

13.10.2023