



WEB COPY



WP.No.4092 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.4092 of 2024

The Authorised Officer
Canara Bank
Sellampatty Branch
Sellampatty, Namakkal – 637 002

.. Petitioner

Versus

The Sub Registrar
Velagoundampatty
Namakkal District – 637 002

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in his refusal slip proceedings bearing No.RFL/Velagoundanpatty/1/2024 dated 07.12.2023.

For Petitioner : Mr.P.Raghunathan
for M/s.T.S.Gopalan and Co

For Respondent : Mr.B.Vijay
Additional Government Pleader



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ORDER

When the petitioner presented a memorandum of deposit of title deeds executed by the owner of the property, the same was refused to be registered on the ground that there was an attachment by the Principal District Judge, Namakkal Court. Challenging the said refusal checkslip, this writ petition is filed.

2. It is the case of the writ petitioner that one Premakumar and his father Yoganathan executed a mortgage by deposit of title deeds in respect of the immovable properties in favour of the petitioner Bank. As the amount has not been paid, loan amount became NPA. Thereafter, under SARFAESI Act, the property has been sold in a public auction and one N.Udhayakumar purchased the property, in order to avail loan has executed a memorandum of deposit of title deeds. When the document was presented for registration, the same was refused to be registered.

3. Counter has been filed by the Sub Registrar. It is the contention that the refusal has been made since the subject property was attached by the Principal District Judge, Namakkal in PSD ACP.No.A8 of 2023 and



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I.A.No.7/2023 in COS.No.22 of 2023 for the property in S.Nos.180/1, 192/5A,

192/5B and 192/6, therefore, the document has been refused to be registered.

4. Heard both sides and perused the materials placed on record.

5. Copy of the so-called attachment is placed before this Court by Mr.B.Vijay, learned Additional Government Pleader. On perusal of the order, it appears that the so-called attachment order has been passed by the Sole Arbitrator one P.S.Devarajan, Advocate, PDJ Court, Namakkal. There is no details in the order as to how the arbitrator assumed the role either by the act of the parties or by the order of the Court. Be that as it may, even assuming that the arbitrator has been appointed legally by the Court and passed such an order, the same will not have any effect on the subject property for the simple reason that as far as the subject property is concerned, the security interest already been created in favour of the petitioner's bank on 15.03.2021 itself which is before the attachment. Thereafter, the proceedings have been taken under SARFAESI and the property also sold and sale certificate is also issued. Such view of the matter, any attachment in respect of the subject property in respect of which security interest is already created and realised will not have any effect.



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N. SATHISH KUMAR, J.

6. Hence, the impugned order passed by the respondent stands quashed and there shall be a direction to the respondent to register the Memorandum of Deposit of Title Deeds dated 07.12.2023 presented by the petitioner. Such exercise shall be completed within a period of one week from the date of receipt of a copy of this Order.

7. With the above direction, this writ petition is allowed. No costs.

18.07.2024

dhk

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To,

The Sub Registrar
Velagoundampatty
Namakkal District – 637 002