



W.P.No.2455 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.2455 of 2024

and

W.M.P.Nos.2692 & 2693 of 2024

Omrasika Automobiles Pvt. Ltd,
Plot No.1364, Opp.Omega School,
Pallavaram Main road,
Gerugambakkam, Mangadu S.O,
Kanchipuram -600 122,
Represented by its Director,
B.B.Mohankumar

... Petitioner

Vs.

1. The Sub Registrar,
Office of the Registration Department,
Walajabad,
Kanchipuram District.

2. The Authorised Officer,
Indian Overseas Bank,
Asset Recovery Management Branch,
Rep. By its Authorised Officer,
3rd Floor, 763, Anna Salai,
Chennai – 600 002.

... Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent in Refusal Check Slip bearing Refusal No.RFL/Walajabad/15/2023 dated 25.09.2023 as illegal, arbitrary and unlawful and consequently directing the first respondent to accept the Certificate of Sale dated 02.09.2023 issued by the second respondent in favour of the petitioner in respect of the petition schedule property without insisting on compliance of any further requirements.

For Petitioner : Mr.T.D.Selvan Babu

For R1 : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

This Writ Petition has been filed to issue a Writ of Certiorarified Mandamus, to quash the impugned order of the first respondent in Refusal Check Slip bearing Refusal No.RFL/Walajabad/15/2023 dated 25.09.2023 as illegal, arbitrary and unlawful and to direct the first respondent to accept the Certificate of Sale dated 02.09.2023 issued by the second respondent in favour of the petitioner in respect of the petition schedule property without insisting on compliance of any further requirements.

2. Heard the learned counsel appearing for the petitioner and the



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learned Special Government Pleader appearing for the official respondent and perused the materials available on record.

3. Since there is no adverse order passed against the private respondent/second respondent, notice to the second respondent is dispensed with.

4. The learned counsel for the petitioner submitted that the petitioner was the successful bidder in the E-auction conducted by the authorised officer of the Indian Overseas Bank/second respondent herein under the The Scrutinization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The second respondent issued sale certificate in favour of the petitioner and when the same was presented before the first respondent, the first respondent refused to register the document, by issuing refusal check slip, which is under challenge.

5. It is to be noted that, since the borrower of the second respondent failed to pay the amount due, the property is under mortgage



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in favour of the second respondent was brought to sale under the SARFAESI Act and the Authorised Officer of the second respondent-Bank issued sale certificate in favour of the petitioner. Once the sale certificate is issued under the SARFAESI Act by the Authorised Officer of the Bank and if the Bank sends the same for registration before the Registering Authority, the Registering officer has to make entry under Section 89(4) and Book No.I of the Registration Act, and if the parties want to register the certificate, it has to be registered in the manner known to law by complying with the Rules contemplated in Registration Act and the relevant G.Os. The first respondent issued the refusal check slip, since subsequent to the mortgage, a portion of the property covered under the mortgage was sold to third party and it was registered under the document before the Registrar. Quoting the same, the first respondent refused to register the document and issued refusal check slip. The first respondent was aware that the sale is only subsequent to the mortgage. Even in the memorandum of title deed itself, it is stated that it was created on 24th March 2014, whereas, sale deed executed by the borrower in favour of third party was in force only on 24th December 2014.



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Mortgagor created an encumbrance by way of selling a portion of the property and it is for the parties to agitate their disputes.

6. As far as the registration of the document is concerned, when the petitioner once presented the sale certificate for registration, the first respondent should register the document in accordance with law, if the document is otherwise in order. The first respondent atleast conduct enquiry by sending notice to all parties, mortgagor as well as the purchaser, but failed to do the same and instead, the first respondent had issued the impugned refusal check slip.

7. Hence the impugned order passed by the Registrar/first respondent is without jurisdiction and it is quashed. The first respondent is directed to register the sale certificate, if it is otherwise in order and in compliance of the Registration Act and Rules.

8. With the above direction, the Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous



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petitions are closed.

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Index: Yes/No

Speaking Order: Yes/No

Neutral Citation: Yes/No

To

The Sub Registrar,
Office of the Registration Department,
Walajabad,
Kanchipuram District.



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P.VELMURUGAN, J.

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