



W.P.No.3761 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.3761 of 2024

R.Revathy

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Petitioner

Vs.

1. The State Bank of India
Chengalpattu Branch
Rep. by its Chief Manager.

2. The Registrar
Debts Recovery Tribunal, Chennai
Shastri Bhavan, Haddows Road
Chennai.

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Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for entire records pertaining to Recovery certificate dated 25.11.2008 passed in DRC Number 148/ 2008 by Recovery officer in O.A. No. 19 of 2007 on the file of Debt Recovery Tribunal - III, Chennai and quash the same as far as the property of the Petitioner is concerned i.e., Plot Nos.46,56,57,58, and 3600 Sq.Ft to an extent of about 12000 Sq. ft vacant in Survey Nos.250 and 251 in Sri Lakshmi Narayana Nagar Approved Layout Vide L.P.No.CSAR/DTCP/M-84/95/L.P.81, No.72, Venkatapuram Village, Chengalpattu District, consequently direct the Recovery officer to issue a fresh Recovery Certificate after deleting the above property within a stipulated period.



W.P.No.3761 of 2024

For the Petitioner : Mr.B.P.Vinoth
for Mr.Krishna Karthi

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.B.P.Vinoth, learned counsel appearing for Mr.Krishna Karthi, learned counsel for the petitioner.

2. Learned counsel for the petitioner submits that the petitioner is the purchaser of the subject property under the registered instrument dated 26.07.2011. The Debts Recovery Tribunal, while deciding the original application filed by the bank against the borrower and the guarantor, came to the conclusion that the mortgage deed is based on forged documents. Even the Recovery Officer, on the ground that the order of attachment relates back to the notice, has refused to entertain the petition.

3. Learned counsel further submits that the order dated 31.12.2022 passed by the Recovery Officer, Debts Recovery Tribunal – III, Chennai was not made known to the petitioner. A copy of the said order was never served upon the petitioner nor the order is passed on



W.P.No.3761 of 2024

the date that was given by the Recovery Officer.

4. The Recovery Officer has observed that the petitioner is having a remedy before the civil court. It appears that there is an observation about mortgage of the subject property based on forged documents. The petitioner claims to be the purchaser from the person who is neither the borrower nor the guarantor. Question would be of title of the borrower and/or the guarantor mortgaging the property, so also of the title of the petitioner's predecessors.

5. The order passed by the Recovery Officer is appellable before the Presiding Officer. Also the petitioner has multiple remedies available to her. The petitioner can approach the civil court or file an appeal against the order passed by the Recovery Officer before the Presiding Officer. The petitioner can plead about the copies of the impugned order dated 31.12.2022 passed by the Recovery Officer not being served upon her before the Presiding Officer.



W.P.No.3761 of 2024

WEB COPY

6. In light of the fact that the petitioner has alternate remedies available, we are not entertaining the present writ petition on merits. All contentions, on merits, are kept open.

7. The writ petition, accordingly, stands disposed of. There shall be no order as to costs.

(S.V.G., CJ.)

(D.B.C., J.)

19.02.2024

Index : Yes/No
Neutral Citation : Yes/No

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W.P.No.3761 of 2024

WEB COPY

To

1. The Registrar
Debts Recovery Tribunal, Chennai
Shastri Bhavan, Haddows Road
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W.P.No.3761 of 2024

THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY, J.

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W.P.No.3761 of 2024

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