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W.P.No.6860 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

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THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No. 6860 of 2018

State Bank of India,
Rep.by its Authorized Officer,
Small and Medium Enterprises Centre (SMEC),
No.157, 5th Floor,
Anna Salai, Chennai – 600 002.

... Petitioner

versus

1. The Sub Registrar,
Sub Registrar Office,
Thiruvottiyur.
- 2.Shri P.Kiran Kumar
- 3.Shri.P.Arun Kumar
- 4.The Arbitrator,
Margadarsi Chits Pvt., Limited,
Rajaji Salai, Chennai – 600 001.
- 5.The Tax Recovery Officer – 9,
Income Tax Department,
Government of India,
3rd Floor, Kannammai Building,
No.11, Anna Salai, Chennai – 600 006.

... Respondents



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Writ Petition filed under Article 226 of Constitution of India, praying to issue a Writ of Mandamus, directing the first respondent to register the pending document No.18 of 2017 on his file i.e., sale certificate dated 16.2.2017 issued by the petitioner herein in favour of respondents 2 and 3 herein and return the same to them and further direct the first respondent herein to endorse necessary changes in Book I in accordance with Section 89(4) of the Registration Act, 1908.

For Petitioner : Mr.A.Gouthaman

For Respondents : Mr.U.Baranidharan
Additional Government Pleader for R1

Mr.M.J.John Arokia Prabhu
for R2 and R3

No appearance for R4

Ms.Hema Muralikrishnan
for R5

ORDER

This writ petition has been filed seeking for issuance of a writ of mandamus, directing the first respondent to register the pending document No.18 of 2017 on his file i.e., sale certificate dated 16.2.2017 issued by the petitioner herein in favour of respondents 2 and 3 herein and return the same



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to them and further direct the first respondent herein to endorse necessary changes in Book I in accordance with Section 89(4) of the Registration Act, 1908.

2. The learned counsel for the petitioner submitted that the petitioner is a Nationalized Bank i.e. State Bank of India. M/s.Shri Lakshmi Vishnu Enterprises availed various credit facilities from the petitioner, for which, one H.Bhanwarlal Indoria and Shri Sashikant Indoria offered their personal guarantee and had also mortgaged their immovable property. As the borrower failed to repay the loan, the petitioner/Bank initiated action under the provisions of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 [SARFAESI Act] and the subject property was brought under public auction in which respondents 2 and 3 were favoured with a sale certificate. While so, respondents 2 and 3 had taken steps to register the Sale Certificate and to make necessary entries in Book I with the first respondent on 16.02.2017, the first respondent refused to register the same stating that some attachments are pending and directed the petitioner to obtain "No Objection Certificate" from the fourth



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

5. Admittedly, the petitioner/Bank sold the subject land to respondents 2 and 3 in the public auction under SARFAESI Act, and sale certificate was issued on 16.02.2017, whereas, the fourth respondent attached the subject property on 15.06.2010, and the fifth respondent attached the subject property on 13.07.2016. Therefore, under these circumstances, the first respondent passed the impugned order directing the petitioner and respondents 2 and 3 to get "No Objection Certificate" from respondent 4 and 5 herein. Therefore, this Court does not find any perversity or infirmity in the order impugned in this writ petition. In view of the above, this writ petition is liable to be dismissed.

6. There is no quarrel over the proposition of law that SARFAESI Act is a special enactment and it will prevail over the general Laws. However, in this case, the attachments were made in the year 2010 and 2016 itself, much prior to the date of issuance of sale certificate on 16.2.2017. In this



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case, no body has challenged the validity of public auction conducted by the Bank under SARFAESI Act. Further the Petitioner Bank has got every right to invoke SARFAESI Act.

7. With the above observations, the writ petition is dismissed.

However, there shall be no order as to costs.

14.03.2024

Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

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Sub Registrar Office,
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2. The Tax Recovery Officer – 9,
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P.VELMURUGAN, J.

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