



W.P. No.9988 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.9988 of 2023 and
W.M.P. No.10047 of 2023

R.P.Mohan

... Petitioner

Vs

- 1.The District Registrar
Krishnagiri District
- 2.The Sub Registrar
Krishnagiri Joint I
Krishnagiri District
- 3.Axis Bank Limited
Rep by its authorised Officer
1st Floor, Jawahar Towers
New No.3, Old No.2
Club House Road
Anna Salai, Chennai - 600 002
- 4.K.Dasarah
- 5.K.Murali
- 6.N.Prabakaran
- 7.K.S.Ragavendran



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8.N.Dhanikachalam

9.K.K.Srinivasan

10.N.Dinesh Kumar

... Respondents

(R4 to R10 are impleaded as per order dated
02.04.2024 in W.M.P. No.24886/2023 in
W.P. No.9988/2023 by NSKJ)

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to impugned order dated 22.02.2023 in Na.Ka. No.8627/U/2022 and quash the same as illegal and consequently direct the 2nd respondent to make necessary entry/footnote in the encumbrance certificate with regard to petitioner's property in the light of orders passed by Debt Recovery Tribunal - II, Chennai in S.A. No.199 of 2020 within a time to be stipulated by this Hon'ble Court.

For Petitioner : Mr.M.Sudhan

For Respondents : Mr.B.Vijay,
Addl. Govt. Pleader for R1 & R2

Mr.V.Manohar for R3

Mrs.Vadhana Bhaskar for R4 to R10

ORDER



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This writ petition has been filed challenging the impugned order rejecting petitioner's claim to make entry in the encumbrance.

2. It is the grievance of the petitioner that the sale certificate issued by the bank in favour of the respondents 4 to 10 was set aside by the Debts Recovery Tribunal in S.A. No.199/2020. Hence, in this regard, he has given an application to make an entry in the encumbrance with regard to the sale certificate already issued in favour of the private respondents. However, the authorities have rejected the contention of the petitioner and directed the parties to approach the District Registrar. Challenging the said order, the present writ petition has been filed.

3.I have perused the impugned order. The impugned order indicates that as against the order of the Debts Recovery Tribunal, two appeals have been filed, one by the auction purchaser and the other by the bank. No stay has been granted. The order of the Debts Recovery Tribunal clearly indicates that liberty has been granted to the bank to proceed further by following the rules under the SARFAESI Act. Therefore, such being the position, the sale certificate has been



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set aside only on the ground of technicalities and liberty is also given to proceed further.

4. At this stage, this court is of the view that no purpose, whatsoever, will be served to the petitioner as long as the mortgage is in existence and security interest has already created in respect of the property. That apart, appeal filed challenging the order of the Debts Recovery Tribunal is also pending. In the event, the appeal being allowed, the original sale certificate automatically get restored. Therefore, again making repeated entries in the encumbrance will not serve any purpose to the petitioner. In such view of the matter, at this stage, the claim of the petitioner is premature. If the petitioner ultimately succeeds in the appeal and the courts are ultimately hold that the entire proceedings are vitiated, only in such situations petitioner's claim can be considered and not at this stage.

5. With the above observation, the writ petition is dismissed. No costs. Consequently, the connected writ miscellaneous petition is closed.

12.06.2024

Speaking order / Non-speaking order
Index : Yes / No
Neutral Citation : Yes / No



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To

- 1.The District Registrar
Krishnagiri District
- 2.The Sub Registrar
Krishnagiri Joint I
Krishnagiri District
- 3.The Government Pleader
High Court, Madras

N.SATHISH KUMAR, J.

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