



W.P.No.8585 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2024

CORAM :

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

AND

THE HON'BLE MR.JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.8585 of 2024

State Bank of India
Stressed Asset Recovery Branch
No.377/1, Dr.Nanjappa Road
Coimbatore 641 018
Rep. by its Chief Manager.

.. Petitioner

Vs.

1. The Sub Registrar
SRO Joint-I, Namakkal.

2. N.Mohan Kumar
3. M.K.Salaiabarnam
4. M.Priyanka Devi
5. M.Karthika
6. Manikandan

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of Certiorarified Mandamus for quashing of the impugned refusal slip No.RFL/Namakkal Joint I/19/2024 dated 04.03.2024 issued by the first respondent and consequently to direct



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the first respondent to register the sale certificate dated 04.03.2024 issued by the petitioner bank in favour of the auction purchaser/sixth respondent.

For the Petitioner : Mr.ML.Ganesh

For the Respondents : Mr.C.Kathiravan
Special Government Pleader
for Respondent-1

Ms.P.Pooja
For Mr.R.Pradeep Kumar
for Respondents 2 & 3

Mr.P.S.Kothandarakan
for Respondent-7

For Respondents 2 & 3
Served. No appearance

For Respondents 4 & 5
Refused – No appearance

ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.M.L.Ganesh, learned counsel for the petitioner, Mr.C.Kathiravan, learned Special Government Pleader for the first respondent, Ms.P.Pooja, learned counsel for Mr.R.Pradeep Kumar,



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learned counsel for the respondents 2 and 3 and Mr.P.S.Kothandaraman, learned counsel for the seventh respondent.

2. The petitioner had conducted auction in respect of the secured asset under Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002. The sale certificate has not been registered in view of the order of attachment passed by the Civil Court in a suit filed by the proposed respondent. It is not disputed that subsequently, the proposed respondent and the borrower have settled their claim.

3. It is contended by learned counsel for the petitioner that the secured asset is registered with CERSAI on 14.12.2016. The mortgage has been effectuated on 22.07.2016. The bank has priority charge.

4. The said issue is no longer *res integra* in view of the catena of judgments of the Apex Court and this Court. If a secured asset is registered with the CERSAI, then, under Section 26E of the Act, the bank has priority claim. In view of that, the order of attachment by the



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Civil Court would not be an impediment for registration of the sale certificate.

5. Learned counsel for the respondents 2 and 3 submits that there are many infirmities in the sale conducted by the bank. Within a span of 36 days, the amount has been increased by more than Rs.1.23 crore. In the earlier sale notice, the reserve price was Rs.1.63 crore. The property has been sold at a price lesser than the reserve price.

6. The respondents 2 and 3 have already challenged the sale before the Debts Recovery Tribunal as contended by learned counsel for the respondents 2 and 3. The respondents 2 and 3 can raise all these contentions in the pending proceedings before the Debts Recovery Tribunal. This Court would not give any finding on the said aspect.

7. In the present writ petition, we are only concerned with the priority of charge in view of section 26E of the Act. The bank has priority charge and as such, the order of attachment by the Civil Court



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would not come in the way for the registration of the sale certificate.

8. The writ petition is disposed of. There shall be no order as to costs. Consequently, W.M.P.No.11439 of 2024 is closed.

(S.V.G., CJ.)

(J.S.N.P., J.)

16.04.2024

Index : Yes/No
Neutral Citation : Yes/No

kpl

To

The Sub Registrar
SRO Joint-I, Namakkal.



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THE HON'BLE CHIEF JUSTICE
AND
J.SATHYA NARAYANA PRASAD, J

(kpl)

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