



WEB COPY



W.P.Nos.11914 & 11919 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :30.04.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.Nos.11914 & 11919 of 2024
and W.M.P.Nos.13015 & 13022 of 2024

Amudha ... Petitioner in W.P.No.11914 of 2024

Sathish Kumar V ... Petitioner in W.P.No.11919 of 2024

Vs.

The Sub Registrar,
Office of the Sub Registrar,
Sendhamangalam, Namakkal.

... Respondent in W.P.No.11914 of 2024

The Sub Registrar,
Office of the Sub Registrar,
Namakkal Joint I, Namakkal.

... Respondent in W.P.No.11919 of 2024

Prayer in W.P.No.11914 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent relating to impugned order / refusal check slip in RFL/ Sendhamangalam / 31/2024 dated 07.03.2024 to quash the same and consequently direct the respondent to forthwith register the sale deed dated 07.03.2024 without insisting on production of any further documents within the time stipulated by this Court.



W.P.Nos.11914 & 11919 of 2024

Prayer in W.P.No.11919 of 2024: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent relating to impugned order / refusal check slip in RFL/ 1 Joint Sub Registrar, Namakkal /21/2024 dated 08.03.2024 to quash the same and consequently direct the respondent to forthwith register the sale deed dated 08.03.2024 without insisting on production of any further documents within the time stipulated by this Court.

In both W.Ps.

For Petitioners : Mr.S.Sheik Ismail

For Respondents : Mr.Yogesh Kanadasan, Spl.G.P

COMMON ORDER

These Writ Petitions have been filed for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned refusal check slips dated 07.03.2024 and 08.03.2024 of the Sub-Registrar and quash the same and consequently, direct the Sub-Registrar to register the sale deeds dated 07.03.2024 and 08.03.2024 which was presented by the petitioners.

2. With the consent of both sides, these Writ Petitions are disposed of at the admission stage itself.



W.P.Nos.11914 & 11919 of 2024

3. Heard Mr.S.Sheik Ismail, learned counsel for the petitioners and Mr.Yogesh Kannadasan, learned Special Government Pleader for the respondents.

4. Challenge has been made to the refusal slips issued by the Sub-Registrar mainly on the ground that the subject properties were already attached by the Civil Court. It is the contention of the petitioners that the properties were originally mortgaged in favour of the Federal Bank in the year 2016 and 2017. As the loan became non-payable, the Federal Bank initiated proceedings under SARFAESI Act and the properties were sold in public auction on 08.04.2022. Thereafter, the petitioners purchased the subject properties. In the meanwhile, pending mortgage, an attachment order has been passed by the Civil Court. Based on the said attachment, now the sale deeds are not registered by the Sub-Registrar, Namakkal.

5. The learned Special Government Pleader who takes notice for the respondents submitted that since attachment is entered, the Sub-Registrar has refused to register the documents.



W.P.Nos.11914 & 11919 of 2024

6. I perused the materials. Even assuming that there is an attachment that will not take away the right of the owners to deal with the properties. This aspect has already been dealt by this Court in the cases of *N. Ramayee v Sub-Registrar reported in (2020)6 CTC 697 and G.Rajasulochana Vs. Inspector General of Registration and others (W.P.No.29706 of 2022)*.

7. Particularly, even assuming that any attachment is made by the Civil Court, it is only insignificant. Since mortgage was already in existence in the year 2016 itself, pursuant to the said mortgage, the properties were sold under SARFAESI Act. According to the said Act, the secured creditor will have the first priority over the other. Such being a position, the refusal check slips cannot be sustained in the eye of law. Accordingly, the same has to be quashed.

8. In the result, these Writ Petitions are allowed. The impugned orders in RFL/ Sendhamangalam/31/2024 dated 07.03.2024 and RFL/ 1 Joint Sub Registrar, Namakkal /21/2024 dated 08.03.2024 are set aside.



W.P.Nos.11914 & 11919 of 2024

The Sub-Registrar is directed to register the documents submitted by the petitioners, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

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

30.04.2024

To

- 1.The Sub Registrar,
Office of the Sub Registrar,
Sendhamangalam, Namakkal.
- 2.The Sub Registrar,
Office of the Sub Registrar,
Namakkal Joint I, Namakkal.



WEB COPY



W.P.Nos.11914 & 11919 of 2024

N.SATHISH KUMAR, J.

gsk

W.P.Nos.11914 & 11919 of 2024
and W.M.P.Nos.13015 & 13022 of 2024

30.04.2024