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W.P. No.13598 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.13598 of 2024

M.Subashini

... Petitioner

Vs

1.The Inspector General of Registration
No.100, Santhome High Road
Pattinampakkam, Chennai - 600 028

2.The District Registrar
South Chennai
Saidapet, Chennai - 600 015

3.The Sub Registrar Joint I
Office of the Sub Registrar
Tambaram, Chennai - 600 045

4.A.Senthil Joothi

5.S.Divyashree

6.Kotak Mahindra Bank Ltd.
Rep. by Authorised Officer
No.27, BKC 27, G-Block
Bandra Kurla Complex
Bandra (E), Mumbai - 400 051

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of mandamus directing the respondents 1 to 3 to consider the representation of the petitioner dated 28.02.2024.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.B.Vijay
Addl. Govt. Pleader for R1 to R3
Mr.T.Saikrishnan for R6

ORDER

This writ petition has been filed for a direction to the respondents 1 to 3 to consider the representation of the petitioner dated 28.02.2024.

2. It is the case of the writ petitioner that she was a tenant under the 4th respondent and at the inception of the tenancy she has paid an advance of Rs.4,50,000/-. However, before the period of tenancy, she was evicted without returning the advance amount. Therefore, for recovery of the said amount, she has filed a suit and got an attachment in the execution proceedings.



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3. Despite the execution proceedings, now the property has been sold by issuing a sale certificate dated 25.01.2024. Hence seeks to cancel the sale certificate.

4. At the outset, this court is of the view that such direction cannot be issued for the simple reason that mortgage is prior to the attachment of the civil court. Therefore, the mortgage has culminated into a sale certificate. The rights of the parties, who got attachment subsequently, will always subject to the prior right created in respect of the immovable property. In such view of the matter, I do not find any merit in the writ petition and the same deserves dismissal.

5. Accordingly, the writ petition is dismissed. However, there is no order as to costs.

27.06.2024

Index : Yes / No
Neutral Citation : Yes / No
Asr



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To

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- 3.The Sub Registrar Joint I
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Tambaram, Chennai - 600 045
- 4.The Government Pleader
High Court, Madras



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N.SATHISH KUMAR, J.

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