



WEB COPY



W.P. No.15927 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM:

THE HON'BLE Mr. JUSTICE S.S.SUNDAR

AND

THE HON'BLE Mr. JUSTICE P.DHANABAL

W.P. No.15927 of 2024

AND

W.M.P. No.17392 of 2024

Dharani Geotech Engineers India Pvt. Ltd.
formerly known as Dharani Geotech Engineers
No.134-B, Kuruthukkalkadu
Kumaramangalam Post
Thiruchengode
Namakkal 637 205

Petitioner

Vs.

Cholamandalam Investment & Finance Pvt. Ltd.
represented by its Authorised Officer
Dare House
2 N.S.C. Bose Road
Parrys
Chennai 600 001

Respondent

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records pertaining to the letter dated 12.01.2024 issued by the respondent insofar it relates to rejection of execution of sale certificate in the name of Dharani Geotech Engineers India Pvt. Ltd. (formerly known as Dharani Geotech Engineers) and quash the same and further, direct the respondent to execute the sale certificate in the name of Dharani Geotech Engineers India Pvt. Ltd. (formerly known as Dharani



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Geotech Engineers) pertaining to the land measuring to an extent of 3137.44 sq. ft. of land comprised in R.S. No.114/1 situated at Thiruchengodu Village/ Panchayat, Thiruchengodu Taluk, Namakkal District in the office of the Sub Registrar, Thiruchengodu.

For petitioner : Mr. R. Sreedhar
For respondent : Mr. Kishore Balasubramaniam

ORDER

(Made by S.S.SUNDAR, J.)

Heard both sides and perused the materials available on record.

2. The brief facts that are necessary for the disposal of this writ petition are as under :

2.1. One Kumaresan had deposited title deeds in favour of the respondent for availing a loan. Since the borrower *viz.*, Kumaresan defaulted, proceedings were initiated by the respondent against him and the property was attached under the Securitisation And Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002 (SARFAESI Act) and the property was brought to e-auction.



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2.2. The petitioner was originally a partnership firm and the erstwhile partnership firm participated in the e-auction and declared as a successful bidder. Pursuant to the e-auction conducted on 25.07.2023, the erstwhile partnership firm paid the entire sale consideration and a sale certificate was also issued in favour of the erstwhile partnership firm.

2.3. After the sale certificate was issued, the petitioner sent a letter to the respondent to complete the registration in the name of the petitioner. It is the specific case of the petitioner that the erstwhile partnership firm was changed as a private limited company. The petitioner has also appeared before the respondent and produced documents which would show how the erstwhile firm was transformed as a private limited company, the petitioner.

2.4. By the impugned order, the respondent refused to register the sale certificate in favour of the petitioner, but, expressed their willingness to execute and register the sale certificate, in whose name the bid form was submitted.

3. On a perusal of the document produced by the petitioner before the respondent, it is seen that the erstwhile partnership firm viz., M/s.Dharani Geotech Engineers has now been renamed as M/s.Dharani Geotech Engineers



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India Pvt. Ltd. After the incorporation of erstwhile firm as a company, it is stated that the assets of erstwhile firm have been taken over by the company.

Hence, the erstwhile firm does not exist. The sale certificate cannot be registered in the name of an entity which does not exist. In such circumstances, this Court is unable to sustain the order impugned in this writ petition. Hence, the impugned order is set aside.

4. Having regard to the admitted facts, this Court is of the view that the petitioner is entitled to get the sale certificate executed and registered in the name of the petitioner company and therefore, the respondent is directed to execute and register the sale certificate as prayed for, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this writ petition stands allowed. No costs. Connected C.M.P. is closed.

[S.S.S.R.,J.] [P.D.B., J.]
10.12.2024

Index : Yes/No
Neutral Citation : Yes/No
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To
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The Authorised Officer
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2 N.S.C. Bose Road
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