



WEB COPY



WP.No.18728 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.18728 of 2021
& W.M.P.No.19993 of 2021

Canara Bank
Bhavani Branch, Rajalakshmi Complex,
NH-47 Main Road, Near Bus Stand,
Bhavani-638 301.
Represented by its Authorised Officer.

.. Petitioner

Versus

1.The Sub Registrar,
Bhavani SRO.
Bhavani Taluk/Village,
Erode-638 301.

2.N.Keshvaraj

3.S.Aruljothi

4.P.Kamala

(R2 to R4 impleaded vide order dated 24.09.2021
made in W.M.P.No.21447/2021 in
W.P.No.18728/2021 by VBSJ.)

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent bearing No.RFL/Bhavani/52/2019 dated 16.07.2019, quash the same and directing the respondent to register the sale certificate dated 16.07.2019.



WEB COPY



WP.No.18728 of 2021

For Petitioner : Mr.P.Raghunathn for
Mr.T.S.Gopalan and Co.,

For Respondents : Mr.R.Ramanlaal,
Additional Advocate General.
Assisted by Mr.B.Vijay,
Additional Government Pleader for R1
Service awaited for R2 and R4
Mr.E.C.Ramesh for R3

ORDER

Challenge has been made as against the refusal check slip dated 16.07.2019 mainly on the ground that there is an attachment in I.A.No.551 of 2016 in O.S.No.156 of 2016 dated 04.03.2017 on the file of Subordinate Court, Bhavani.

2.Heard both sides and perused the materials placed on record.

3.By consent of both parties, this writ petition is taken up for final disposal.

4.It is the case of the petitioner that the petitioner is a mortgagee. The mortgage was registered on 16.09.2014 vide document No.6637/2014.

Pursuant to the same, proceedings have been initiated under the



WP.No.18728 of 2021

WEB COURT

Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002(SARFAESI Act), which culminated in the sale certificate dated 16.07.2019. When the abovesaid document sought to be registered, the same is refused by the respondent viz., Sub Registrar, Bhavani SRO, Erode, citing attachment of the property by the Subordinate Court, Bhavani, vide order passed in I.A.No.551 of 2016 in O.S.No.156 of 2016 on 04.03.2017.

5. At the outset, this Court is of the view that since the petitioner being the earlier mortgagee and the mortgage was registered in the year 2014 itself and any decree obtained later will always subject to the mortgage. When such being the position, the subsequent attachment made by the Subordinate Court, Bhavani, vide order in I.A.No.551 of 2016 in O.S.No.156 of 2016 on 04.03.2017 will not override the mortgage. In such view of the matter, the registering authority cannot refuse to register the document.

6. Accordingly, the impugned refusal checkslip dated 16.07.2019 stands quashed and the first respondent is directed to register the sale certificate dated 16.07.2019 within a period of one month from the date of



WP.No.18728 of 2021

receipt of a copy of this Order.

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7. In view of the above, this writ petition stands allowed. No costs.

Consequently connected miscellaneous petition stands closed.

03.07.2024

raa

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

To

The Sub Registrar,
Bhavani SRO.
Bhavani Taluk/Village,
Erode-638 301.



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WP.No.18728 of 2021

J.

N. SATHISH KUMAR,

raa

W.P.No.18728 of 2021

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