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WP.No.18115 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

CORAM

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

WP.No.18115 of 2024 & 19903 of 2024

M/s.Nivethana Promoters Private LTD.,
Door No.68, Karumarampalayam,
Uthukkzhi Main Road, Rirupur – 641 607
Rep. by its Director Mr.R.Krishnamoorthy

.. Petitioner

Versus

1. The Sub Registrar,
Attur, Salem District, Tamil Nadu.

2. M/s.Salem Textiles Ltd.,
Selliampalaya, Narasingapuram, Salem – 636 108.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus quashing the refusal slip RFL/ AAthur Salem East/51/2024 dated 12.03.2024 of the 1st Respondent and quash the same as illegal and void and direct the 1st Respondent to receive the Sale Deed dated 12.03.2024 was executed by the second Respondent in favour of the petitioner company presented for registration by the petitioner herein and register the same.



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For Petitioner : Mr.P.Elayarajkumar
for Ramalingam & Associates
For Respondents : Mr.P.Anandhakumar
Government Advocate – R1

ORDER

Since no adverse Order has been passed against the second respondent, notice to the second respondent is dispensed with. With the consent of both sides, this Writ Petition is taken up for final disposal at the admission stage itself.

2. This writ petition is filed to quash the impugned refusal slip RFL/AAthur Salem East/51/2024 dated 12.03.2024 of the first respondent and quash the same as illegal and void and direct the first Respondent to receive the Sale Deed dated 12.03.2024 was executed by the second Respondent in favour of the petitioner company presented for registration by the petitioner herein and register the same.

3. Heard learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent and perused the materials available on record.



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4. The case of the petitioner is that petitioner purchased a property belonging to the second respondent company. The second respondent company had mortgaged the said property and availed loan facilities from different banks namely ICICI Bank, Hongkong Shanghai Bank, IDBI, IFCI, IRBI, Karnataka Bank and UTI Bank. When the sale deed was presented for registration, the same was refused to be registered on the ground that original document has not produced and on the ground that there are attachment by the Debt Recovery Tribunal and also by the EPF. Challenging the same, the present Writ Petition has been filed.

5. The contention of the learned counsel appearing for the petitioner is that as far as the attachment of the Debt Recovery Tribunal is concerned, no due certificates have been obtained from the secured creditors and a copy of the same have been produced in typed set and all the banks have furnished no due certificates before the Debt Recovery Tribunal recording full satisfaction. As far as attachment in EPF, the same has also been raised which is also reflected in the Encumbrance Certificate dated 08.04.2024. Hence, submitted that the Order impugned cannot be sustained in the eye of law.



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6. A perusal of the records indicate that all the secured creditors have given no due certificate recording full satisfaction before the Debt Recovery Tribunal. The attachment with regard EPF has also been raised which is reflected in the Encumbrance Certificate dated 08.04.2024. As far as refusal to register the document on the basis of non production of original document is concerned, this aspect has been elaborated held by this Court in **Federal Bank Vs. Sub Registrar and two others in W.P.No.2758 of 2023 dated 08.02.2023** and hence, the respondent cannot refuse to register the document citing non production of original. They can very well verify the certified copies available with them.

7. In such view of the matter, let the first respondent issue notice to all the concerned banks namely ICICI Bank, Hongkong Shanghai Bank, IDBI, IFCI, IRBI, Karnataka Bank and UTI Bank and enquiry about the no due certificate issued by them and if it is found that full satisfaction has already been recorded, there is no impediment for the first respondent to register the document and shall register the sale deed dated 12.03.2024 presented by the petitioner. Such an exercise shall be completed within a period of one month from the date of receipt of a copy of this Order.



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8. With the above direction, this Writ Petition is allowed and the impugned refusal slip of the first respondent dated 12.03.2024 is quashed.

No costs. Consequently, connected miscellaneous petition is closed.

10.07.2024

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Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No

To,

The Sub Registrar,
Attur, Salem District, Tamil Nadu.



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N. SATHISH KUMAR, J.

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