



W.P.Nos.1758 & 1759 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2024

CORAM:

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

W.P.Nos.1758 & 1759 of 2023

W.P.No.1758 of 2023

The Deputy Registrar/Managing Director
Rasipuram Cooperative Urban Bank Ltd. No.6649
Door No.58, Nagaravanki Street
Rasipuram, Namakkal District

.. Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies
II Floor, Collectorate
Namakkal Circle
Namakkal 637 001

2.The Sub Registrar
O/o.Rasipuram Sub Registrar
No.76, South Katcheri Street
Rasipuram, Namakkal District

3.The Official Receiver
Combined Court Building
Salem District Court
Yercaud Road, Salem

4.S.Loganathan

5.Kamalam

6.M.Parthiban

7.T.Sangeetha

.. Respondents



W.P.Nos.1758 & 1759 of 2023

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent to cancel Sale Deed No.4334 of 2010 registered on 16.07.2010 and to cancel the Sale Deed No.5174 of 2011 registered on 03.10.2011 and consequently remove the encumbrance and direct the 1st respondent to proceed with the execution proceedings in C.E.P.No.4995 of 1999 pending on the file of the 1st respondent within time fixed by this Court.

For Petitioner : Mr.R.Balaramesh
For R1 and R2 : Mr.L.S.M.Hasan Fizal
Additional Government Pleader
For R3 : Mrs.Archana
For R4 to R7 : Mr.S.P.Yuvaraj

W.P.No.1759 of 2023

The Deputy Registrar/Managing Director
Rasipuram Cooperative Urban Bank Ltd. No.6649
Door No.58, Nagaravanki Street
Rasipuram, Namakkal District

.. Petitioner

Vs

1.The Deputy Registrar of Cooperative Societies
II Floor, Collectorate
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4.The Official Receiver
Combined Court Building
Namakkal District Court
Tiruchengode Road
Namakkal 637 003

5.Alamelu

6.Murugasan

7.Indra Gandhi

8.Selvi

9.Srinivasan

.. Respondents in WP.1759/23

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus directing the 2nd respondent to cancel Sale Deed registered as document No.1442 of 2020 on 10.06.2020 and consequently remove the encumbrance and direct the 1st respondent to proceed with the execution proceedings in C.E.P.No.659 of 2000 pending on the file of the 1st respondent within time fixed by this Court.

For Petitioner	:	Mr.R.Balaramesh
For R1 and R2	:	Mr.L.S.M.Hasan Fizal Additional Government Pleader
For R3 and R4	:	Mrs.Archana
R5	:	Deceased
For R6 to R9	:	Mr.L.P.Ramanathan

COMMON ORDER

These writ petitions have been filed for a direction to the 2nd respondent to cancel the Sale Deeds executed in favour of the private respondents/auction purchasers.



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WEB COPY 2. Brief facts leading to the filing of these writ petitions are as follows:

Loganathan and his wife Kamalam/R4 and R5 in W.P.No.1758 of 2023, borrowed loan from the writ petitioner, for which, they executed a mortgage bond dated 02.06.1998. Similarly, Alamelu/R5 in W.P.No.1759 of 2023, along with her husband Palaniandi Pillai, executed mortgage deeds dated 28.11.1997 and 26.06.1998 for the loan availed by them from the writ petitioner. Thereafter, it appears that the insolvency proceedings that were initiated by the borrowers before the Sub Court, Namakkal, in I.P.Nos.85 of 1999 and 11 of 2002, got dismissed *vide* orders dated 17.08.2005 and 03.01.2006, respectively, as against the writ petitioner and the Official Receiver was directed to take over the control of the proceedings as per the insolvency proceedings, pursuant to which, the Official Receiver also proceeded to realise the amount. In that process, the properties were brought for auction, wherein, the respondents 6 and 7 in W.P.No.1758 of 2023 and the 9th respondent in W.P.No.1759 of 2023, are the successful auction purchasers. The auction purchasers also deposited their respective sale consideration and the same is lying with the Official Receiver.



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3. It is the case of the writ petitioner that without redemption of the mortgaged property, the auction sale was conducted by the Official Receiver which is arbitrary and non-est in the eye of law and therefore, the Sale Deeds are liable to be cancelled.

4. The Official Receiver, who appeared *via* virtual hearing, submitted that after defraying the expenses incurred in connection with the auction proceedings, approximately, a sum of Rs.17,00,000/- will be paid to the writ petitioner.

5. Learned counsels appearing for the private respondents, including the legal heirs of the mortgagors, mortgagee and the auction purchasers, in unison, submitted that the 7th respondent in W.P.No.1758 of 2023 and the 6th respondent in W.P.No.1759 of 2023, have entered into an agreement with the writ petitioner on 11.03.2024, undertaking to pay the remaining amount, apart from the amount payable by the Official Receiver.

6. As the writ petitioner has also entered into an agreement of OTS so that this matter is given a quietus, the same is recorded.



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7. This Court is of the view that there is no purpose in cancelling the

Sale Deeds executed in favour of the auction purchasers. The agreement entered into between them shall form part and parcel of the order. The Official Receiver shall transfer the said sum of Rs.17 lakhs and odd, after obtaining appropriate orders from the Sub Court, Namakkal.

8. Recording the submission of the Official Receiver and considering the fact that the matter has been settled between the parties, these writ petitions are disposed of, on the above terms. No costs.

13.06.2024

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Index : Yes/No

Neutral Citation : Yes/No



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