IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.11.2024

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.36100 of 2024

S.Annamali Prabu ... Petitioner

Vs.

1.Government of Union Territory
Of Puducherry,
Represented By Its Chief Secretary,
Goubert Avenue, Puducherry 605001.

2.Sub Registrar
Registration Department,
Villianur, Puducherry 605110.

3.Tax Recovery Officer
Income Tax Department,
Puducherry 605001. ...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Mandamus, directing the 2nd respondent to register the sale certificate dated 3 July 2024 issued to the petitioner by J.M.Financial Asset Reconstruction Company Limited in respect of the property in R.S.No. 243, Villianur Commune Panchayat, Odiampet Revenue Village, Puducherry Registration District.

For Petitioner : M/s.Gopika Nambiar

For Respondents : M/s.M.Nirmal Kumar,
Govt. Advocate (P) AGP
for R.1 and R.2

ORDER

This Writ Petition is filed to direct the 2nd respondent to register the sale certificate dated 3 July 2024 issued to the petitioner by M/s.J.M.Financial Asset Reconstruction Company Limited in respect of the property in R.S.No.243, Villianur Commune Panchayat, Odiampet Revenue Village, Puducherry Registration District.

Brief facts:-

2. The subject property was originally mortgaged to UCO Bank by one Vijayalakshmi on 16.11.2011. Thereafter, when she had defaulted in the payment of loan, the bank, as secured creditor, initiated proceedings under SARFAESI Act and then assigned the debt to M/s.J.M.Finance Asset Reconstruction Company vide a registered agreement dated 23.03.2014.

3. Thereafter, in an auction conducted by M/s. J.M. Finance Asset Reconstruction Company, the petitioner had become the auction purchaser. Pursuant to the auction, a sale certificate dated 03.07.2024 was issued and possession was also delivered to the petitioner. When the said sale certificate was presented for registration before the 2nd respondent, he had refused to register the same stating that there was an attachment by the Income Tax Department on the subject property. Aggrieved by the same, the petitioner is before this Court.

4. Heard the counsels on either side.

5. In a very recent judgement of the Hon'ble Supreme Court dated 19.11.2024 in ***CA.No.12527 of 2023 - The State of Punjab & Arn. Vs. M/s.Ferrous Alloy Forgings P. Ltd. & Ors***, the Hon'ble Supreme Court had reiterated the judgement of the Hon'ble Supreme Court reported in ***(2021) 11 SCC 537 - M/s.Esjaypee Impex Pvt Ltd. Vs. The Assistant General Manager and Authorised Officer Canara Bank***, wherein it has been stated that the mandate of law that flows from a combined reading of Sections 17(2) (xii) and 89 (4) of the Registration Act respectively is that the auction purchaser is entitled to receive the original sale certificate and a copy of the same is required to be forwarded to the Sub Registrar for the purpose of filing any Book I as per the Registration Act.

6. The bench after considering the judgement in the case of ***The Inspector General of Registration and Another Vs. G.Madhurambal and another*** reported in ***2022 SCC Online SC 2079,*** has observed as follows:-

> *"The position of law discussed above makes it clear that sale certificate issued by the authorised officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the sale certificate is forwarded by the authorised officer to the registering authority. However, a perusal of Articles 18 and 23 respectively of the first schedule to the Stamp Act respectively makes it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that*

the requirement of payment of stamp duty, etc. would arise."

7. The position of law discussed above makes it clear that the sales certificate issued by the authorised officer is not compulsory registrable. Mere filing under section 89 (4) of the Registration Act itself is sufficient when a copy of the sale deed is forwarded by the authorised officer to the registering authorities.

8. Therefore, in the light of the above, the Writ Petition is allowed. A mandamus is issued to the 2nd respondent to register the sale certificate dated 03.07.2024, issued to the petitioner by M/s.J.M.Financial Asset Reconstruction Company Limited in respect of the property in R.S.No.243, Villianur Commune Panchayat, Odiampet Revenue Village, Puducherry Registration District, within a period of 2 weeks from the date of representation of the sale certificate by the petitioner. No costs.

29.11.2024

(shr)
Index : Yes/No
Speaking Order: Yes/No
Neutral Citation : Yes/No

To

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P.T. ASHA. J.,

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