



W.P.No.34786 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.P.No.34786 of 2023

M/s.India Resurgence ARC Pvt.Ltd.,
(formerly known as Piramal Assets Reconstruction Pvt., Ltd.,)
Registered office at
3rd Floor, Piramal Tower,
Peninsula Corporate Park,
Gannatran Kadam Marg,
Lower Parel, Mumbai – 400 014,
Branch office at,
No.766, Sakthi Towers, Executive Zone,
Annasalai, Chennai – 600 002,
Represented by its Authorised Officer,
Mr.V.K.Yunus Mohammed

... Petitioner

versus

1.The Sub Registrar,
Office of Sub Registrar,
Uthukottai – 602 026.

2.Mr.D.Sanjeeva

.....Respondents

Writ Petition filed under Article 226 of Constitution of India, praying
to issue a Writ of Mandamus, directing the first respondent to consider the

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request and allow the petitioner to register the sale certificate dated 22.08.2022 issued in favour of the second respondent as per sale deed dated 24.02.2012 executed in favour of the borrower vide Doc.No.502 of 2012.

For Petitioner : Mr.V.Balasubramani
For Respondents : Mrs.V.Yamunadevi
Special Government Pleader for R1

R2 – Notice Dispensed with

ORDER

This writ petition has been filed seeking for issuance of a writ of mandamus directing the first respondent to allow the petitioner to register the Sale Certificate dated 22.08.2022 issued in favour of the second respondent as per Sale Deed dated 24.02.2012 executed in favour of the borrower vide Doc.No.502 of 2012.

2. It is the claim of the petitioner-Company that it is the financial institution and it sold secured assets secured from the borrowers M/s.Maghendra Trading, Mr.Kumaresan Ramachandiran, Mr.D.A.Anbazagan, Mr.A.Raja Maghendran and Mrs.A.Sowbhaghiya Lakshmi towards the financial facility in respect of the loan being offered by



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M/s.Hero Fincorp Limited, in favour of the second respondent under the SARFAESI Act. The second respondent was favoured with a Sale Certificate dated 22.08.2022 for the properties purchased by him. When the petitioner presented the Sale Certificate for registration, it is noticed that the schedule of properties mentioned in the Memorandum of Deposit of Title Deed differs from the Sale Deed executed in favour of the borrower Mr.D.A.Anbazagan. The borrower mistakenly mentioned the properties in the Memorandum of Deposit of Title Deed dated 14.03.2018, registered as Doc.No.523/2018. Unless the schedule of properties is corrected, the petitioner could not be in a position to register the said Sale Certificate in favour of the second respondent. Therefore, the petitioner has filed the present writ petition for the relief as sought for.

3. The learned counsel for the petitioner submitted that the borrowers mortgaged the scheduled mentioned properties vide Memorandum of Deposit of Title Deed dated 14.03.2018, registered as Doc.No.523/2018 with one M/s.Hero Fincorp Limited in order to obtain money from the financial institution. Since the borrowers did not repay the money, under SARFAESI Act the properties were sold on 22.08.2022 and they confirm the sale and possession also handed over to the second respondent. When the Sale

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Certificate was presented for registration, the second respondent informed that the schedule of properties mentioned in the Memorandum of Deposit of Title Deed differs from the Sale Deed executed. The petitioner is required to mention the correct schedule of properties in the Sale Certificate to be registered to convey the said properties to the highest bidder to avoid future legal complications, if any.

4. The learned Special Government Pleader appearing for the first respondent by referring to the counter affidavit contended that the first respondent has no power to rectify the mistakes committed by the petitioner. Based on the documents placed before the first respondent, the Memorandum of Deposit of Title Deed, dated 14.03.2018 was registered vide Doc.No.523 of 2018. Hence the first respondent cannot make any modifications in the document, which was already registered. Further, the schedule of properties which the petitioner wants to rectify is entirely different from the schedule of properties mentioned in the previous



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document. Hence the first respondent cannot make the changes in the absence of the parties to the previous documents.

5. Heard both sides and perused the materials available on record.

6. Once the properties shown in the Memorandum of Deposit of Title Deed and in the Sale Deed differs, the first respondent has no power to rectify the mistakes committed by the petitioner or its mortgagor. It is for the petitioner to work out his remedy before the first respondent in the presence of the mortgagor to rectify the error by executing ratification deed or to approach the Debts Recovery Tribunal. Therefore, the petitioner is not entitled to the relief as sought for in this writ petition.

7. In view of the above, the Writ Petition is dismissed. However, there shall be no order as to costs.

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Index: Yes/No
Speaking Order : Yes/No
Neutral Citation Case : Yes/No
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To

The Sub Registrar,
Office of Sub Registrar,
Uthukottai – 602 026.

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P.VELMURUGAN, J.

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