



W.P.(MD).No.158 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P.(MD)No.158 of 2024

and

W.M.P.(MD).No.173 of 2024

Mohammed Abdul Kadher Fazil

... Petitioner

vs.

1.The Sub Registrar,
Dindigul Joint I Sub Registrar Office,
Dindigul District Collectorate,
Dindigul 624 004.

2.Edelweiss Asset Reconstruction
Company Limited,
represented by Authorised Officer,
Suresh Maduramraj,
1st Floor,
Edelweiss House, Off CST Road,
Kalina, Santa Cruz,
Mumbai 400 098.

... Respondents

PRAYER:- Writ Petition is filed under Article 226 of the Constitution of India, to issue Writ of Certiorarified Mandamus, to call for the records of the impugned refusal check slip passed by the 1st respondent bearing



W.P.(MD).No.158 of 2024

RFL/1/Joint Sub Registrar Dindigul/15/2023 dated 25.08.2023 and quash the same and to consequently direct the 1st respondent to register the sale certificate dated 25.08.2023 issued by the 2nd respondent in favour of the petitioner.

For Petitioner : Mr.Prem Ayyathurai
For R1 : Mr.C.Satheesh
Government Advocate

ORDER

This writ petition has been filed challenging the impugned refusal check slip passed by the 1st respondent bearing RFL/1/Joint Sub Registrar Dindigul/15/2023, dated 25.08.2023 and quash the same and consequently direct the 1st respondent to register the sale certificate dated 25.08.2023, issued by the 2nd respondent in favour of the petitioner.

2. By consent of both the parties, this writ petition is taken up for final disposal at the admission stage itself.

3. According to the petitioner, he is the Proprietor of M/s.MASA Agro Foods, Dindigul and he was engaged in the manufacture of edible



W.P.(MD).No.158 of 2024

WEB COPY

oils and food products since 2022. He has participated in the E-Auction sale in respect of a house site plot admeasuring about 2,100 sq.ft. in T.S.No.1660/5 and 6, Ward No.6, Race Course Road, Ram Nagar, Dindigul Town and Registration District and duly made payment of a total sum of Rs.67,70,000/- in favour of the second respondent company. Consequently, the second respondent executed a sale certificate in favour of the petitioner on 25.08.2023. Thereafter, the petitioner sought to register the sale certificate dated 25.08.2023 in his favour before the first respondent. But the first respondent has refused to register the sale certificate by way of impugned refusal check slip, dated 25.08.2023. The reason cited for the refusal was the existence of an encumbrance on the said land by way of an attachment order arising out of judgment dated 29.03.2023 in O.S.No.258 of 2019 on the file of the 1st Additional District Judge, Madurai. The attachment by way of order dated 18.11.2020, in respect of the petition mentioned property is not a bar against the registration of the sale certificate dated 25.08.2023, duly executed by the second respondent in favour of the petitioner. Hence, the petitioner has filed the present writ petition seeking to quash the



W.P.(MD).No.158 of 2024

WEB COPY

impugned order passed by the first respondent and to direct the first respondent to register the sale certificate dated 25.08.2023, issued by the second respondent in favour of the petitioner.

4. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the first respondent.

5. In this case, the petitioner seeks for registering the sale certificate, relying upon the judgment of this Court in the case of ***S.Praveen Bohra v. Joint-I Sub Registrar, Coimbatore*** reported in **2016 (3) L.W. 513**, in which it is clear that it is well settled principles of law that the order of attachment cannot be a bar to register the document and there is no need for the petitioner to file an appeal and the sale of the subject property, pending the order of attachment is void only as against the claims enforceable under the order of said attachment and not in respect of other claims and the sale of the property attached cannot be construed as illegal sale and consequently directed the Sub Registrar to register the document and release the registered document in favour of



W.P.(MD).No.158 of 2024

the petitioner.

WEB COPY

6. In view of the above circumstances, this Court is of the view that there is no bar in registering the sale certificate, subject to the pendency of the other proceedings by way of judgment and decree of the civil Court.

7. In the result, this Writ Petition is allowed and the impugned order passed by the first respondent dated 25.08.2023 is set aside and the first respondent is directed to register the sale certificate issued in favour of the petitioner, dated 25.08.2023, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

05.01.2024

Index: Yes/No
Internet: Yes/No
NCC: Yes/No

akv

5/7



W.P.(MD).No.158 of 2024

WEB COPY

To

The Sub Registrar,
Dindigul Joint I Sub Registrar Office,
Dindigul District Collectorate,
Dindigul 624 004.



WEB COPY



W.P.(MD).No.158 of 2024

V.BHAVANI SUBBAROYAN,J.

akv

W.P.(MD)No.158 of 2024

05.01.2024