



W.P(MD)No.3641 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.3641 of 2023

P.Sethumani

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Raja Annamalaipuram,
Chennai-600 028.

2.The District Registrar,
No.7/35, Gandhipuram Round Road,
Dindigul Railway Station,
Dindigul 624 003.

3.The Sub Registrar,
Kodaikanal, Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records in refusal check slip No.RFL/Kodaikanal/13/2023, dated 10.02.2023 issued by the third respondent rejecting to register the sale certificate dated 06.04.2019 and quash the same by directing the third respondent to register the sale certificate dated 06.04.2019 on the file.

For Petitioner : Mr.S.Veeraraghavan



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For Respondents : Mr.R.Baskaran
Additional Advocate General
assisted by
Mr.R.Ragavendran
Government Advocate

ORDER

Heard the learned counsel for the petitioner and the learned Additional Advocate General assisted by the learned Government Advocate for the respondents.

2. The petitioner purchased the petition mentioned property on 28.02.2019. The property was brought under auction at the instance of the Canara Bank who had filed O.A.No.181 of 2006 before the Debts Recovery Tribunal, Coimbatore. OA was allowed and R.P.No.95 of 2013 was also issued in the recovery proceedings instituted by the bank. Auction was conducted under the aegis of DRT and the petitioner turned out to be the highest bidder. The sale certificate was issued on 06.04.2019. On 06.04.2019, the DRT, Coimbatore addressed letter to the third respondent herein (registering authority) for filing the sale certificate in Book No.1. The filing formalities could not take place. This was because the document had been marked as Exs.117 & 118 in C.C.No.6 of 2006 on the file of the 2nd Additional District



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Judge (CBI Act Cases), Coimbatore. The petitioner who is the bonafide purchaser in an auction conducted by the tribunal filed CrI.O.P.No.22181 of 2021 for return of the document. CrI.O.P.No.22181 of 2021 was allowed on 10.01.2022 and thereafter, the petitioner was able to obtain the return of the original sale deeds. Thereafter, the petitioner approached the registering authority and sought filing of the sale certificate. The registering authority refused registration on the ground that four months time limit prescribed in Section 23 of the Registration Act has since lapsed. Refusal check slip was issued to this effect. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned refusal check slip and grant relief as prayed for.

4. The learned Additional Advocate General appearing for the respondents submitted that the petitioner has not enclosed any proof to show that the sale certificate was actually sent by the tribunal to the registering authority. The authority authority was justified in issuing the impugned refusal check slip. The respondents pressed for dismissal of the writ petition.



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5. I carefully considered the rival contentions and went through the materials on record. Section 23 of the Registration Act reads as follows:-

23. Time for presenting documents :- Subject to the provision contained in section 24,25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution: Probability that a copy of a decree or order may be presented within four months from the date on which the decree or order was made, or, where it is appealable, within from the day on which it becomes final.

6. In my view, invoking Section 23 does not arise at all. The sale certificate is a document covered under Section 17(2)(xii) of the Registration Act. Section 17(1) of the Act catalogues the documents that are compulsorily registrable. Section 17(2) of the Act catalogues the documents that are not compulsorily registrable. Any certificate of sale granted to the purchaser of any property sold by public auction by a Civil or Revenue Officer falls under Section 17(2)(xii) of the Act. Section 89(4) of the Act is as follows:-

89. Copies of certain orders, certificates and instruments to be sent to registering officers and filed:-

(4) Every Revenue Officer granting a certificate of the sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1.



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The effect of the aforesaid provision is that the registering authority is obliged and bound to file the sale certificate once it is received from the officer granting the certificate. In this case, it was the Debts Recovery Tribunal which had conducted the sale and also issued the sale certificate. Copy of the communication sent to the registering authority dated 06.04.2019 is enclosed in the typed set of papers. Copy of the same has been marked through the party as well as the Manager, Canara Bank, Coimbatore. The petitioner is in receipt of the said communication. It is quite probable that the DRT had sent the sale certificate directly to the registering authority. The petitioner has also paid the necessary stamp duty as well as the registration fee.

7. I therefore hold that the third respondent was not justified in refusing to file the document. In this view of the matter, I set aside the impugned refusal check slip. It is not known as to how the sale certificate reached the petitioner's hands. Be that as it may, considering the special facts and circumstances of this case, the petitioner is permitted to re-present the document. It shall be filed in Book No.1 by the third respondent. I am granting this relief since I am satisfied that the tribunal had sent the original sale certificate dated 06.04.2019 itself directly to the registering authority.



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8. The Writ Petition is allowed on these terms. No costs.

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NCC : Yes/No
Index : Yes / No
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To

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G.R.SWAMINATHAN, J.



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