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W.P.(MD)NO.6305 OF 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.04.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.6305 of 2024 AND
W.M.P.(MD)Nos.5903, 5904 & 5906 of 2024

A. Sangeetha

... Petitioner

Vs.

1. The Sub Registrar,
Thoothukudi Melur Sub Registrar Office,
Thoothukudi District.

2. The Co-operative Registrar / Liquidator Officer,
O/o.the Deputy Registrar (Housing) Officer,
Tirunelveli Region, No.1, Meignana Street,
Palayamkottai, Tirunelveli -2.

... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.21/2024 dated 20.02.2024 on the file of the first respondent and quash the same as illegal and consequently to issue a direction directing the first respondent to register the Memorandum of Deposit of Title Deed(MOD) dated 19.02.2024 made by the petitioner for mortgage home loan with the SBI, Bank, Thoothukudi Bazaar Branch without insisting the no objection certificate from the second respondent within the time stipulated by this Court.



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For Petitioner : Mr.I.Pinaygash
For R-1 : Mr.B.Saravanan,
Additional Government Pleader.
For R-2 : Mr.K.Selva Ganesan,
Additional Government Pleader.

* * *

ORDER

Heard the learned counsel on either side.

2. The petitioner approached the State Bank of India, Bazaar Branch, Tuticorin for obtaining loan by mortgaging the petition mentioned property. The loan appears to have been sanctioned. The petitioner however has to register the memorandum of deposit of title deeds. At this stage, the Sub Registrar raised an issue and sought advise from the second respondent by sending communication dated 20.02.2024. Questioning the same, the present writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner purchased the petition mentioned property from one Azhagu Muthaiah vide sale deed dated 25.01.2021. The said Azhagu



Muthaiah in turn purchased the property from the Tamil Nadu Electricity Board Employees Cooperative Building Society Ltd., vide sale deed dated 25.06.2020. The revenue record stands in the name of the petitioner. As on date there is no attachment order in respect of the petition mentioned property. Therefore, the question of seeking advise from the second respondent will not arise at all. Since the communication is only in the nature of seeking clarification, it is not amenable to judicial review and there is no need to interfere with the same. As and when the MOD in respect of the petition mentioned property is submitted, it shall be registered subject to fulfilment of the other usual formalities.

4. However, I have to place on record the serious objections raised by the learned Additional Government Pleader appearing for the second respondent. It is stated that the property is with the co-operative Society and that the the liquidator had illegally sold the property without following the statutory norms. In this regard, a criminal case has already been registered and the proceedings have also been initiated. The learned Additional Government Pleader would further state that action is being taken to have the transactions nullified.

5. Though the bank had sanctioned the loan for a sum of Rs.37 Lakhs, interestingly, the actual consideration in the sale deed executed in



favour of the petitioner is only Rs.3,11,600/-. While the registration can very well go on, the rights of the parties will abide by the outcome of the proceedings initiated by the second respondent.

6. With this observation, this writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

05.04.2024

Index : Yes / No

Internet : Yes/ No

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To:

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G.R.SWAMINATHAN,J.

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