



WP(MD). No.10586 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Date : 22/08/2024

CORAM

The Hon`ble Mr.Justice N.SATHISH KUMAR

**WP(MD). No.10586 of 2022
and WMP(MD) No.7719 of 2022**

Navrose Harima N

... Petitioner

Vs

1. The District Registrar,
Tenkasi, Tenkasi District..

2. The Sub Registrar,
Joint No.II Sub Registrar Office,
Tenkasi,Tenkasi District..

3. The Branch Manager,
GIC Housing Finance Limited, Door No.
16 and 17, North Veli Street, Madurai
Shop C and D A.R.Plaza, Madurai Taluk,
Madurai District..

4. Ramalakshimi,

... Respondents

PRAYER :- Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorarified Mandamus, calling for the records relating with the impugned order dated 05.04.2022 in Refusal Check Slip in RFL /No.2 Joint Sub Registrar,



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Tenkasi/27/2022 issued by the 2nd respondent and quash the same as it illegal and it consequently to direct the 2nd respondent to register the sale deed of the petitioner in favour of 4th respondent dated 05.04.2022 in respect of the property in S.No. 934/2C1 to an extent of 1204.56 sq ft in Kuthukalvalasai Village, Tenkasi District and release the document in accordance with law.

For Petitioner : M/s. Saravanakumar S,
For Respondent : Mr.P.Subbaraj for R1 & R2
Special Government Pleader
Mr.M.Sankar for R3
No appearance for R4

ORDER

Challenge has been made to the slip issued by the 2nd respondent. The petitioner presented a sale deed dated 05.04.2022 executed in favour of the 4th respondent and the same on presentation, refused to be registered on the ground that suit filed in OS No.202/17 by the petitioner is dismissed.

2. Brief facts leading to the filing of the writ petition are that the petitioner filed a suit in OS No.202/17 against the third respondent and others restraining them from interfering with the possession of the



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subject property. The said suit has been dismissed on the ground that since the vendor of the petitioner already availed loan from the third respondent, SARFAESI proceedings have been initiated and injunction has rightly been negated. On that ground, the document sought to be refused to be registered.

3. The learned counsel for the third respondent would submit that the vendor of the petitioner already availed two loans and as on today, the outstanding loan is Rs.23,47,157/-. Even today they are ready to receive the said amount and they have no objection for registration of the document, whereas the learned counsel for the petitioner would submit that according to them, no SARFAESI proceedings have been initiated and merely on the basis of the loan availed long back cannot be a ground to prevent registration.

4. At the outset, this Court is of the view that slip issued by the respondent cannot be sustained in the eye of law, merely because the petitioner has not obtained any permanent injunction as against the defendants in the suit filed by her, it is not a ground for refusal. The



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remedy lies elsewhere. If any SARFAESI proceedings are initiated, security interest can be enforced and it can have a first priority. In such view of the matter, the third respondent shall work out their remedy in the manner known to law. However, the document cannot be refused to be registered.

5. In view of the above, the writ petition is allowed and the impugned refusal slip issued by the 2nd respondent is quashed. It is made clear that mere registration of the document will not give absolute right to the petitioner and it is always subject to right of the secured creditor. No costs. Consequently connected Miscellaneous Petition is closed.

22.08.2024

RR

TO

1. The District Registrar,
Tenkasi, Tenkasi District..
2. The Sub Registrar,
Joint No.Ii Sub Registrar Office,
Tenkasi, Tenkasi District..



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N.SATHISH KUMAR,J

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