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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.17359 of 2023
and
W.M.P.(MD)No.14551 of 2023

Ravichandran ... Petitioner

Vs.

1.The Sub Registrar,
Office of Sub-Registrar,
Manapparai,
Trichy District.

2.Sakthivel

3.Mathiyazhagan ... 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 records in RFL/Manapparai/157/2023 dated 28.06.2023 on the file of the 1st respondent and quash the same as arbitrary and illegal and consequently direct the 1st respondent to register the sale deed dated 28.06.2023 executed by 2nd and 3rd respondents in favour of the petitioner.

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For Petitioner : Mr.K.Prabhakar

For Respondents : Mrs.D.Farjana Ghoushia,
Spl. Government Pleader for R1.

ORDER

Heard the learned counsel for the writ petitioner and the learned Special Government Pleader for the first respondent.

2.The petitioner wants to sell the petition mentioned property. When the sale deed was presented for registration, the registration was refused on the ground that the encumbrance register reflects a mortgage executed and registered way back in the year 1976 (Document No.2087/1976). Challenging the same, the present writ petition came to be filed.

3.The first respondent has filed counter affidavit and the learned Special Government Pleader took me through its contents. In fact, additional grounds of rejection were sought to be argued by the learned Special Government Pleader. It is well settled that a public order will have to speak for itself and it cannot be improved by adding reasons in the counter affidavit. Leading case on this subject is the decision reported ***1978 (1) SCC 405 (Mohinder Singh Gill Vs. The Chief Election Officer, New Delhi)***. I therefore will test the impugned

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refusal check slip only on the ground mentioned therein. It is obvious that the registering authority has invoked first proviso to Rule 55A of the Registration Rules. This has also been quashed by a learned Judge of this Court. It has been consistently held that reflection of a mortgage transaction in the encumbrance register cannot come in the way of the land owner from dealing with the property. That apart, as rightly pointed out by the learned counsel for the petitioner, the mortgage deed was executed way back in the year 1976. More than 30 years have passed. Therefore, even the limitation for enforcing the same has already expired. Even a suit for foreclosure cannot be filed at this point of time. The reasons cited in the impugned refusal check slip are clearly bad in law. The petitioner is permitted to re-present or present any document. It shall be received, registered and released subject to fulfilment of other usual formalities.

4.The writ petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To:-

The Sub Registrar,
Office of Sub-Registrar,
Manapparai,
Trichy District.

W.P(MD)No.17359 of 2023

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