



W.P(MD)No.19629 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 19.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.19629 of 2023

M/s.Karur Vysya Bank,
Rep. by its Senior Manager,
Asset Recovery Branch,
Mattuthavani-Melur Road,
Near Mattuthavani Bus Stand,
Madurai.,

... Petitioner

Vs.

- 1.The District Registrar,
Registration Department,
Tenkasi District.
- 2.The Sub-Registrar (Joint-II),
Registration Department, Tenkasi,
Tenkasi District.
- 3.M/s.Dhanalakshmi Timbers,
Rep. by its Managing Partner,
No.1/506, Tenkasi Shenkottai,
Piranoor Border, Shenkottai,
Tenkasi District.
- 4.Shenbaga Raman
- 5.Mallika
- 6.Premkumar
- 7.Subbaiah

... Respondents



W.P(MD)No.19629 of 2023

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 and 2 to efface / delete the attachment entry in the encumbrance certificate relating to the property in Survey No.556B/4B measuring to an extent of 21 cent and Survey No.556B/4C measuring to an extent of 21 cent, Melagaram Village, Tenkasi District within a reasonable time period fixed by this Court.

For Petitioner	: Mr.V.Sukumar
For R1 & R2	: Mr.C.Satheesh, Government Advocate
For R3 & R5	: Mr.H.Arumugam
For R4	: No Appearance
For R6	: Mr.R.J.Karthick
For R7	: Mr.Niranjan S.Kumar

ORDER

The petitioner seeks a direction to the respondents 1 and 2 to efface / delete the attachment entry in the encumbrance certificate, relating to the property in Survey No.556B/4B to an extent of 21 cents and Survey No.556B/4C to an extent of 21 cents, Melagaram Village, Tenkasi District, within a reasonable time period fixed by this Court.

2.It is the case of the petitioner that the properties in question were originally mortgaged by the respondents 3 to 5 to the petitioner Bank on



W.P(MD)No.19629 of 2023

29.04.2015. Since they failed to repay the loan amount, the proceedings under SARFAESI Act had been initiated and the demand notice was issued on 10.02.2022 and ultimately, possession notice was issued on 04.02.2022. Thereafter, the properties in question were brought under public auction, wherein the 7th respondent was the successful bidder and the sale certificate was issued in his favour, which was registered on 31.05.2023. In the meanwhile, in the suit filed by the 6th respondent for recovery of money, attachment order has been passed and the same is communicated to the 7th respondent and reflected in the encumbrance. Hence, the petitioner Bank has filed this Writ Petition with the aforesaid prayer.

3.At the outset, this Court is of the view that once a security interest has been created in respect of the property and action initiated under SARFAESI Act is culminated the sale certificate, which was already registered, any attachment later reflected in the entries assumes insignificance. Therefore, since the Bank is the secured creditor, the attachment order passed by the civil Court after initiation of the proceedings under SARFEASI Act, will have no impact. It will automatically become insignificance.



W.P(MD)No.19629 of 2023

WEB COPY

4. With the above observation, this Writ Petition is disposed of. It is made clear that if the petitioner is willing to register this order, it is for the petitioner to present the same for registration and on presentation, the same shall be registered immediately. No costs.

19.09.2024

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

Yuva

To

1. The District Registrar,
Registration Department,
Tenkasi District.
2. The Sub-Registrar (Joint-II),
Registration Department, Tenkasi,
Tenkasi District.



WEB COPY



W.P(MD)No.19629 of 2023

N.SATHISH KUMAR, J

Yuva

W.P(MD)No.19629 of 2023

19.09.2024