

W.P.No.1126 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 21.01.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.No.1126 of 2025

W.M.P.No.1364 of 2025

M/s.A.R.Subramaniam Educational Trust,
having its registered office at
No.12, Jothy Theatre Road,
Tiruppur – 641 601,
represented by its Trustee,
Mr.S.Saravanakumar.

...Petitioner

Vs

1.The Sub-Registrar

Sulur Sub Registrar Office,
Old No.113, 114, New No.423,
Trichy Road, Sulur – 641 402.

2.The Authorised Officer/Assistant General Manager,

Karur Vysya Bank,
Asset Recovery Branch,
R.S.No.170/9, Uthangudi Village,
Near Mattuthavani Bus Stand,
Madurai – 625 107.

...Respondents

PRAYER :-Writ Petition filed under Article 226 of the Constitution of



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India, pleased to issue Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent having reference No.A.Thi.Mu.No.571/2024, dated 26.10.2024, quash the same and consequently direct the 1st respondent to take on file the sale certificate dated 04.10.2024 issued by the 2nd respondent in favour of the petitioner herein in respect of the vacant lands bearing site No.77, admeasuring an extent of 3200 sqft, situated at Transport Nagar, comprised in S.F.No.580/2F1 of Neelambur Village, Suler Panchayath Union, Suler Taluk, Coimbatore District in Book No.1 under Section 89 (4) of the Registration Act, 1908 and to make necessary changes/entries in the registration records within the time period to be stipulated by this Court.

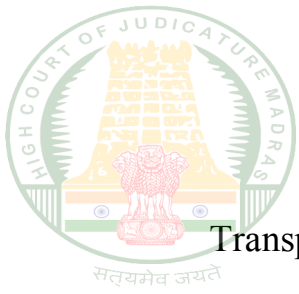
For Petitioner : M/s.R.Bharath Kumar

For Respondent : Mr.B.Vijay
Additional Government Pleader
for R1.

ORDER

The Writ Petition has been filed for the following reliefs:-

To call for the records relating to the impugned proceedings of the 1st respondent having reference No.A.Thi.Mu.No.571/2024, dated 26.10.2024, quash the same and consequently direct the 1st respondent to take on file the sale certificate dated 04.10.2024 issued by the 2nd respondent in favour of the petitioner herein in respect of the vacant lands bearing site No.77, admeasuring an extent of 3200 sqft, situated at



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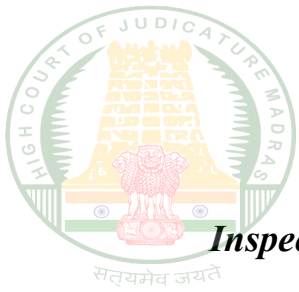
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Transport Nagar, comprised in S.F.No.580/2F1 of Neelambur Village, Sulur Panchayath Union, Sulur Taluk, Coimbatore District in Book No.1 under Section 89 (4) of the Registration Act, 1908 and to make necessary changes/entries in the registration records within the time period to be stipulated by this Court.

2.Mr.B.Vijay, the learned Additional Government Pleader would submit that the order passed by the Hon'ble Supreme Court in S.L.P.No.26950 of 2024 arises from the order of the Division Bench of this Court passed in W.A.No.940 of 2024 wherein, after condoning the delay and granting leave, the matter has been adjourned for filing written submissions. The Hon'ble Supreme Court has only stayed the contempt proceedings.

3.Heard the learned counsels on either side.

4.This petition is filed to direct the 1st respondent to register / enter the Sale Certificate to register the Sale Certificate under Section 89(4) of the Registration Act, 1908, the Petitioner is before this Court. The issue is no longer res integra in the light of the Judgment in the case of the



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Inspector General of Registration and Another vs. G.Madhurambal

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and Another, reported in 2022 SCC Online SC 2079. A two Judge

Bench of the Hon~ble Supreme Court observed that the filing of the sale certificate cannot be regarded as a conveyance subject to stamp duty. The Court further observed that once a direction is issued for the duly validated certificate to be issued to the auction purchaser with a copy forwarded to the registering authorities to be filed in Book I as per Section 89 of the Registration Act, it has the same effect as registration and requirement of any further action is obviated.

5. In an earlier Judgment in the case of ***M/s.Esjaypee Impex Private Limited vs. The Assistant General Manager and Authorized Officer Canara Bank, reported in (2021) 11 SCC 537***, the three Judge Bench of the Hon~ble Supreme Court observed that the mandate of law that flows from a combined reading of Sections 17(2) (xii) and 89(4) of the Registration Act respectively is that the auction purchaser is entitled to receive the original sale certificate and a copy of the same is required to be forwarded to the Sub~Registrar for the purpose of filing in Book 1 as per the Registration Act.



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6. On 19.11.2024, the position has been reiterated by the two Judge

WEB COM Bench of the Hon~ble Supreme Court in Civil Appeal.No.12527 of 2024

rendered in ***The State of Punjab & Another vs. M/s.Ferrous Alloy Forgings Private Limited and Others***, after considering the earlier orders observed as follows:~

"20. The position of law discussed above makes it clear that sale certificate issued by the authorised officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the sale certificate is forwarded by the authorised officer to the registering authority. However, a perusal of Articles 18 and 23 respectively of the first schedule to the Stamp Act respectively makes it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of payment of stamp duty, etc. would arise."

7. Therefore, in the light of these judicial pronouncements and as no final orders have been passed in the above referred Special Leave Petition, this Court is inclined to follow the afore mentioned judgements.

Accordingly, the Writ Petition is allowed and the 1st Respondent is



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directed to register / enter the Sale Certificate issued by the Authorised Officer of the Karur Vysya Bank, Asset Recovery Branch, Madurai – 625 107, in favour of the petitioner, in accordance with the mandate under Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908 without any stamp duty and registration charges, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
ep

P.T.ASHA, J,

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To
The Sub-Registrar
Sulur Sub Registrar Office,
Old No.113, 114, New No.423,
Trichy Road, Sulur – 641 402.

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