IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.01.2025

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THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.2682 of 2025

M.Bharathi .... Petitioner

Vs

The Joint-I Sub Registrar (South)
Office of the Joint-I Sub Registrar (South)
Coimbatore. ... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to receive the sale certificate dated 25.09.2024 and enter in Book No.1 U/s.89(4) of the Registration Act, 1908, without insisting the stamp duty in accordance with Registration Act within the period that may be stipulated by this Court and to pass such or further order or other orders that may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.S.Arivazhagan

For Respondent : Ms.C.Meera Arumugam
Additional Government Pleader

ORDER

The writ petition has been filed seeking mandamus to the respondent to receive the sale certificate dated 25.09.2024, and entr the same in Book No.1, under Section 89 (4) of the Registration Act, 1908.

2. The case of the petitioner is that one K.J.Hospital had obtained a loan from Fedral Bank mortgaging their property admeasuring an extent of 14.618 cents of land in S.No.671/2A situated in Kuniyamuthur Village, Coimbatore Taluk, together with a building thereon measuring 33,000 sq.ft. and all equipments thereat as security interest. Thereafter, K.J.Hospital defaulted in making the loan payments and its asset had been declared as Non-Performing Assets. In order to recover its dues, the Bank had assigned the financial assets of the borrower in favour of JM Financial Asset Reconstruction Co. Ltd., (in short 'JMFARC'), who is the Trustee of JMFARC-Federal Bank March 2013-Trust. Even thereafter, the K.J.Hospital failed to comply with the demand made by JMFARC.

Therefore, proceedings were initiated by the Bank under Sec.13(4) of the SARFAESI Act, and the property was brought to public auction. E-auction was conducted on 03.06.2024, and the petitioner who participated in the e-auction was declared as the successful bidder. On 25.09.2024, JMFARC issued the sale certificate in respect of the immovable property in favour of the petitioner and copy of the same was also marked to Sub-Registrar of Assurances, Coimbatore. When the petitioner approached the respondent with the said sale certificate to make entry in Book No.1 under Sec.89(4) of the Registration Act, 1908, without insisting for payment of stamp duty, the respondent refused to receive the said document, but had not issued any refusal slip. On 03.12.2024, a representation in this regard was made to the respondent by the petitioner. But no action has been taken till date. Aggrieved by the acts of the respondent, the petitioner is before this Court.

3. Heard the learned counsels and perused the records.

4. A perusal of the records would indicate that on 25.09.2024, the

JMFARC has forwarded the sale certificate to the petitioner and a copy of the same was marked to Sub-Registrar of Assurances, Coimbatore for entering the sale certificate in Book No.1, maintained under Section 89 (4) of the Registration Act. The petitioner on his part had also submitted his representation dated 03.12.2024 to the respondent. To date, the same has not been considered by the respondent.

5. Section 89 (4) of the Registration Act reads as follows:

> *"Every Revenue Officer granting a certificate of the sale to the purchaser of immovable property sold by public auction shall send a copy of the certificate to the registering officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situate, and such officer shall file the copy in his Book No. 1."*

6. In the judgement of the Hon'ble Supreme Court in ***Inspector General of Registration Vs. Madhurambal*** *reported in 2022 SCC Online SC 2079*, the Supreme Court has held as follows:

> *"It is logically so as this issue has been repeatedly settled and if one may say, a consistent view followed for the last 150*

years. We may refer to the judgments by the Madras High Court in the Board of Revenue No.2 of 1875 (In Re: Case Referred) dated 19.10.1875 opining that a certificate of sale cannot be regarded as a conveyance subject to stamp duty, by the Allahabad High Court in Adit Ram v. Masarat-unNissa1 opining that a sale certificate is not an instrument of the kind mentioned in clause (b) of Section 17 of Act III of 1877 and is not compulsorily registrable and this Court's view in Esjaypee Impex Pvt. Ltd. v. Asst. General Manager and Authorised Officer, Canara Bank opining that the mandate of law in terms of Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908 only required the Authorised Officer of the Bank under the SARFAESI Act to hand over the duly validated Sale Certificate to the Auction Purchase with a copy forwarded to the Registering Authorities to be filed in Book I as per Section 89 of the Registration Act and order of this Court in M.A. No.19262/2021 in SLP(C) No.29752/2019 dated 29.10.2021 opining 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 obviates the requirement of any further action."

7. In the light of the judgment of Hon'ble Supreme Court cited

supra, a mandamus is issued to the respondent to enter the aforesaid sale certificate dated 25.09.2024 in Book No.1, within a period of two weeks from the date of receipt of a copy of this order.

8. With the above direction, the Writ Petition stands allowed. No costs.

31.01.2025

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
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To:
The Joint-I Sub Registrar (South)
Office of the Joint-I Sub Registrar (South)
Coimbatore.

P.T.ASHA, J.,

ds

W.P.No. 2682 of 2025

31.01.2025