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WP No. 8173 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21-04-2025

CORAM

THE HONOURABLE MR JUSTICE N. ANAND VENKATESH

WP No. 8173 of 2025

1. S.Badrunnisa

W/o.Sirajudeen, No.4132, 4th Block,
13th Floor, Osian Chlorophy Ii
Apartment, Porur, Chennai-116

Petitioner(s)

Vs

1. The District Collector

Salem Collector Office, Salem District

2.The Revenue Divisional Officer

Revenue Divisional Office, Salem
District

3.The Tahsildar

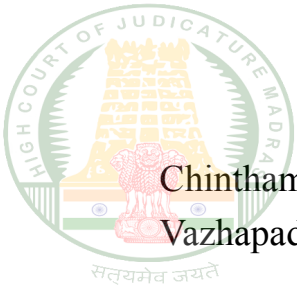
Tahsildar Office, Vazhapadi-taluk,
Salem District

4.The Branch Manager

Union Bank Of India, (corporation
Bank), 48/14 Car Street, Salem Town
Branch Salem-636 001

5.K.Jayakumar

S/o.Kanagarajan, D.No.59/t,



Chinthamaniyur Ayothiyapattinam,
Vazhapadi-taluk, Salem District

WEB 6.P.Mahalakshmi

D/o.Perumal Padiyachi, Ram Nagar,
Ayothiyapattinam, Vazhapadi Taluk,
Salem District Pincode-636 103

Respondent(s)

PRAYER

Writ petition filed under Article 226 of Constitution of India for the issue of writ of Mandamus directing the 3rd respondent to issue the patta in the petitioners name, pertaining to property situated in Door No.81 Ram Nagar, Ayothipattinam, Vahzpadi Taluk,Salem District bearing Survey No.158/4D ward No.13 measuring to the extent of 920 sq.feet by considering the petitioners representation made to the respondents 1 to 3 on 19.7.2024 and again on 26.12.2024.

For Petitioner(s): Mr.S.Karthikeyan
for Mr.K. Manikandan
For Respondent(s): M/s. A.M.Amutha Ganesh, V.
Jayavigneshwari, M. Balu For R6
Dt 27/3/25
Mr.L.Sriram for
M/s. Chennai Law Firm For R4
Dt 28/3/25
Mr.G.Gokul Krishnan Gp Takes
Notice For R1 To R3



ORDER

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This writ petition has been filed for the issue of writ of Mandamus directing the 3rd respondent to act upon the representation made by the petitioner on 19.07.2024 wherein the petitioner is seeking for issuance of patta in her name with respect to the subject property.

2. The case of the petitioner is that the 4th respondent bank initiated SARFAESI proceedings against the 5th respondent since his account was declared as 'NPA'. In the said process, the property that stood in the name of the 5th respondent and which was given as a security for the loan, was brought for sale by the 4th respondent and the petitioner participated in the auction and was declared as the highest bidder. The petitioner paid the entire amount in the year 2007 and the 4th respondent bank issued a sale certificate in favour of the petitioner dated 07.07.2010. This document was registered on the file of the Sub Registrar, Ayothipattinam, Salem District as Document No.1021 of 2022. Thereafter, the petitioner submitted representations seeking for issuance of patta in her name. Since the same was not considered, the present writ petition has been filed before this Court.

3. The 6th respondent has filed a counter affidavit along with typed set of papers. The case of the 6th respondent is that the 5th respondent misrepresented and got a sale deed executed in his favour on 13.11.2003 which



was registered as document No.1760 of 2003. This sale deed came to be challenged by the 6th respondent by filing a suit in OS No.58 of 2017 before the

District Munsif cum Judicial Magistrate, Vazhapadi, seeking for the relief of cancellation of sale deed and for permanent injunction not to disturb the possession and enjoyment of the 6th respondent. This suit was decreed exparte by judgement and decree dated 17.11.2022. This decree was also registered before the concerned Sub Registration Office as document No.4060 of 2023. In view of the same, the 6th respondent sought for issuance of patta in her name. Since the same was not considered, a writ petition came to be filed before this Court in WP No.36338 of 2023. This writ petition was disposed of by an order dated 28.12.2023 by issuing direction to the Tahsildar to deal with the representation made by the petitioner and to pass appropriate orders.

4. Pursuant to the above order, the name of the 6th respondent was included in the joint patta issued in Patta No.1177. The 6th respondent has taken a stand that she is in possession and enjoyment of the property and she was cheated and the 5th respondent had managed to get the sale deed executed in his favour and in view of the decree passed by a competent Civil Court, the 6th respondent has taken a stand that the petitioner cannot seek for a patta and consequently, the present writ petition is liable to be dismissed by this Court.



5. Heard Mr.S.Karthikeyan for Mr.K.Manikandan, learned counsel for the petitioner and

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6. It will be more appropriate for this Court to take note of the sequence of events that has taken place in this case.

7. The property originally belonged to the 6th respondent. The 6th respondent through a registered sale deed dated 1311.2003 conveyed the property in favour of the 5th respondent. This document was registered as document No.1760 of 2003. The 5th respondent had availed loan facilities from the 4th respondent and had created a mortgage by deposit of title deeds. The 5th respondent did not repay back the loan and his account was classified as NPA and the 4th respondent initiated proceedings under the SARFAESI Act. The property was ultimately brought for sale by the 4th respondent by conducting a public auction and the petitioner participated in the same and was the highest bidder. The sale certificate came to be issued in favour of the petitioner on 07.07.2010. Thus, the title came to be transferred in favour of the petitioner by operation of law. This sale certificate was registered before the concerned Sub Registration office as document No.1021 of 2022. Based on this sale certificate, the petitioner had submitted a representation before the 3rd respondent seeking for patta.

8. After the 5th respondent had acted upon the sale deed and had



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mortgaged the property in favour of the 4th respondent to avail loan and the property was brought for auction sale in the year 2010 and the petitioner became the auction purchaser, there was nothing left in the sale deed that was executed by the 6th respondent in favour of the 5th respondent and the title had already passed on in favour of the petitioner. The suit that was filed by the 6th respondent as against the 5th respondent in OS No.58 of 2017 before the learned District Munsif cum Judicial Magistrate, Vazhapadi is like flogging a dead horse. The 6th respondent was seeking for a declaration that the sale deed executed in favour of the 5th respondent is null and void, when this sale deed has already been acted upon and the property was mortgaged and brought for auction sale and sale certificate came to be issued in favour of the petitioner in the year 2010 itself. Such suit that was filed by the 6th respondent does not bind either the petitioner or the 4th respondent bank and such declaration sought for by the 6th respondent will not take away the right and title of the petitioner in the subject property. In fact, filing such a suit after the SARFAESI proceedings are initiated, is a clear bar under Section 34 of the SARFAESI Act.

9. The name of the 6th respondent was added in the joint patta based on the order passed in WP No.36338 of 2023 dated 28.12.2023. When this order was passed by this Court, this Court was only made aware about the exparte decree that was passed in favour of the 6th respondent. This Court was not aware of the fact that the sale deed has been acted upon by the 5th respondent and the property had been mortgaged in favour of the 4th respondent bank and the



property was already brought for auction sale and the petitioner became the auction purchaser. If these facts had been informed to this Court, the earlier writ petition filed by the 6th respondent would not have been entertained by this Court.

10. Insofar as the decree passed in OS No.58 of 2017 by the District Munsif cum Judicial magistrate, Vazhapadi, the same has to be held as non-est in the eye of law insofar as the petitioner and the 4th respondent bank are concerned. There is more than one reason to come to such a conclusion. The first reason is that such a suit was filed after the proceedings were initiated under the SARFAESI Act and the property was already brought for auction sale in the year 2010 itself. Hence, such a suit is barred under Section 34 of the SARFAESI Act. The 2nd reason is that the 5th respondent conveniently remained exparte in the suit and it was not brought to the notice of the Trial Court about the subsequent developments. If the same had been informed to the Trial Court, such a decree would not have been passed by the Court since the Trial court would have realised that the said suit itself is barred under law.

11. It is not necessary for the petitioner to challenge the decree passed in OS No.58 of 2017 by the District Munsif cum Judicial Magistrate, Vazhapadi, since this decree does not in any way bind the petitioner and this Court has already held that it is non-est in the eye of law.



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12. In the upshot of the above discussion, this Court holds that the patta that was transferred in favour of the 6th respondent by adding her name in the joint patta must be held to be illegal. The name of the 6th respondent must be removed from the patta and the name of the petitioner has to be included in the patta by acting upon the representation made by the petitioner on 19.07.2024. Necessary proceedings shall be issued in this regard by the 3rd respondent within a period of four weeks from the date of receipt of a copy of this order.

13. In the result, this writ petition is allowed with the above directions.

No costs.

21-04-2025

rka

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No



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