IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2025

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P.No.10980 of 2023

Mr.Chirag Bansal ..Petitioner

Vs.

1. Deputy Commercial Tax Officer,
   Madhuranthagam Tax Assessment Circle,
   Chennai 603 306

2. Sub Registrar,
   Office of the Sub-Registrar,
   Madhuranthagam,
   Chennai 603 306

3. Inspector General of Registration,
   100, Santhome High Road, Mullima Nagar,
   Mandavelipakkam,
   Chennai 600 028

4. The Tamil Nadu Industrial Investment Corporation Limited,
   HIG No.42 and 43, 1st Floor,
   MGR Salai, Maraimalai Nagar,
   Chengalpattu – 603 209 ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to detach the said property from encumbrance and also to direct the 3rd respondent to permit the 2nd respondent to register the said sale certificate in the name of the petitioner and to forbear the respondents from in any manner dispossessing or interfering with the petitioner's right on the said property.

For Petitioner	: Mr.A.G.SAthyanarayana
For Respondents	: Mrs.Amritha Government Advocate for 1st respondent Mr.U.Baranidharan Special Government Pleader for R2 and R3 Mr.P.T.Rakesh for R4

ORDER

This writ petition has been filed for the issue of writ of Mandamus directing the 2nd respondent to register the sale certificate issued in the name of the petitioner and not to put against the petitioner the attachment order issued by the 1st respondent.

2. When the matter came up for hearing on 04.02.2024, this Court passed the following order :-

Upon Hearing both sides, the following issues arises for *consideration before this Court and they are;*

(a) the sale certificate was issued in favour of the petitioner by the Tamil Nadu Industrial Investment Corporation Ltd., (TIIC) dated 22.11.2021. There is no indication in the affidavit filed in support of the writ petition as to whether the petitioner has either sent the sale certificate to the Registrar for filing under Section 89 in Book-I or whether any steps were taken by the petitioner to register the sale certificate. The difference between filing a sale certificate and registration of the sale certificate and the stamp duty involved, was discussed by this Court in detail in ***Sri Balaji Fibre .Vs. The Inspector General of Registration, Chennai and Others reported in (2024) 4 MLJ 593****. This Court must also take into consideration the judgment of the Apex Court in* ***The State of Punjab and Others .Vs. Ferrous Alloy Forgings Pvt.Ltd., and Others reported in (2024) 6 CTC 715*** *and ;*

(b)Section 23 of the Registration Act provides for four months time for presenting the document for registration. Section 25 of the Act provides for a further period of four months where the document can be presented with delay and if the same is condoned, a fine can be imposed not exceeding ten times the amount of the registration fee. The question is as to whether this Court in exercise of its jurisdiction under Article 226 of the Constitution of India can condone the period of delay beyond eight months.

2.The learned counsel for the petitioner and the learned Government Advocate appearing on behalf of the respondents 1 to 3 seeks for sometime to workout the judgments and present it before the Court.

3.Post this writ petition under the caption 'for orders' on 17.02.2025.

3. When the matter was taken up for hearing today, the learned counsel for the petitioner submitted that the petitioner is willing to pay the stamp duty and the registration fees for the registration of the sale certificate.

4. On going through the materials placed before this Court, it is seen that TIIC through communication dated 24.11.2021 had informed the Sub Registrar about the execution of the sale certificate in favour of the petitioner and for registration of the same. When the sale certificate was presented before the Sub Registrar, the same was not entertained on the ground that there is an order of attachment of the 1st respondent. Thereafter, there was no progress and this writ petition was filed before this Court.

5. In the considered view of this Court, the 4th respondent is a secured creditor and the property was brought for sale by the 4th respondent while initiating proceedings for recovery of the loan amount from the borrower. Such right of the secured creditor will have precedence over a crown debt. The law on this issue is now too well settled.

6. In the light of the specific stand taken by the petitioner that he is willing to pay the stamp duty and the registration fees as applicable for a sale certificate, the relief as sought for by the petitioner can be granted by this Court. The attachment made by the 1st respondent shall not to be put against the petitioner for refusing to register the sale certificate.

7. In the result, there shall be a direction to the 2nd respondent to entertain the sale certificate issued in favour of the petitioner on payment of the necessary stamp duty and registration charges and it shall be registered and released to the petitioner.

8. This writ petition is disposed of with the above directions. No costs.

20.02.2025

Index : Yes/No
Internet : Yes/No
Speaking Order / Non Speaking Order
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To
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N. ANAND VENKATESH, J.
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