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W.P.No.10936 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.02.2025

CORAM :

THE HONOURABLE **MR.JUSTICE N.ANAND VENKATESH**

Writ Petition No.10936 of 2024

1.M/s.Fedbank Financial Service Limited
Rp.by its authorized officer
Aravindan Mohan
Kanakia Wall Street
A Wing, 5th Floor, Unit No.511
Anderi Kurla Road
Anderi (East), Mumbai-400 093.
Maharashtra.

2.B.Ashok Kumar
No.25/3, 9C JVL, Bungalow Flowers Road
Kilpauk, Chennai 600 010.

.... Petitioners

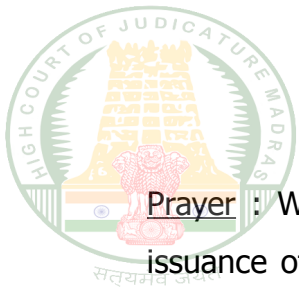
-Vs-

1.Inspector General of Registration
100, Santhome High Road
Chennai 600 028.

2.The Sub Registrar
Office of the Sub Registrar
Purasawalkam
Chennai 600 023.

3.Mr.Albert Prakasam
Proprietor of M/s.Joycell
No.90/93, Foxen Street
Perambur, Chennai 600 011.

..Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records and quash the discharge receipt dated 21.03.2024 which is registered as Doc.No.1526 of 2024 before the 2nd respondent and consequently to direct the 2nd respondent to register the sale certificate of the 2nd petitioner (Prayer amended as per order dated 09.02.2024 in WMP.40460/2024 in WP.10936/2024 by PTAJ)

For Petitioners : Mrs.R.Rabecca Vasanthini Percy

For Respondents : Mr.B.Vijay
Additional Government Pleader
for R1 & R2

R3 - left

ORDER

This writ petition has been filed challenging the discharge receipt dated 21.3.2024 which was registered as D.No.1526 of 2024 before the 2nd respondent and for a consequential direction to the 2nd respondent to register the sale certificate given in favour of the 2nd petitioner.

2.Heard Mrs.R.Rabecca Vasanthini Percy, learned counsel for the petitioners
Mr.B.Vijay, learned Additional Government Pleader for R1 & R2.

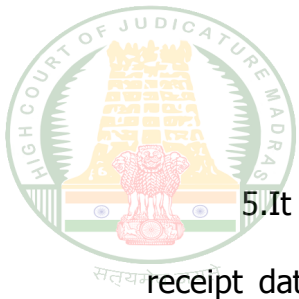
3.The case of the petitioners is that the 3rd respondent had taken loan from the 1st petitioner and towards this loan, he had mortgaged his property by deposit of title deeds. The 3rd respondent defaulted in the repayment of the loan and his account



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was classified as NPA on 04.06.2023. Thereafter, notice was issued under Section 13(2) of the SARFAESI ACT and further proceedings were initiated under Section 13(4) of the Act. The symbolic position was taken on 28.8.2023. Thereafter, it is stated in the affidavit that physical possession of the property was also handed over to the Advocate Commissioner on 04.4.2024 and thereby the 1st petitioner came in complete control of the property.

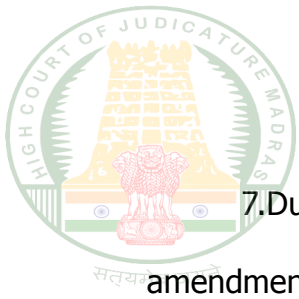
4.The 1st petitioner thereafter proceeded to bring the property for auction and a sale notice was issued. The 2nd petitioner offered to purchase the property and he was the highest bidder and the auction sale was confirmed by the 1st petitioner in favour of the 2nd petitioner on 23.11.2023. The sale certificate was also executed in favour of the 2nd petitioner on 28.03.2024. When this sale certificate was presented for registration before the 2nd respondent, the same was refused to be registered by issuing refusal check slip dated 28.3.2024 by stating that the 1st petitioner had already given a complete discharge to the 3rd respondent through a discharge receipt dated 21.03.2024 and this discharge receipt was also registered before the 2nd respondent as document No.1526/2024. While so, the sale certificate deals with the property belonging to the 3rd respondent who has already been discharged from the equitable mortgaged debts and therefore the sale certificate dealing with the property of the 3rd respondent was refused to be entertained. Aggrieved by the same, the present writ petition has been filed before this Court.



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5. It is inconceivable as to why the 1st petitioner had issued the discharge receipt dated 21.03.2024 and thereby had discharged the 3rd respondent from the equitable mortgage debts, when in fact, the loan amount was not repaid back and the property belonging to the 3rd respondent was also brought for auction sale. There is something more than what meets the eye in this case. It is not quite clear as to what was the understanding between the 1st petitioner and the 3rd respondent when both of them presented the discharge receipt for registration before the 2nd respondent. Till this discharge receipt is in force, the presumption is that the 3rd respondent has settled the entire amount borrowed by him and he has been fully discharged from all the equitable mortgage debts. Hence, there is no question of bringing his property for sale and registering the sale certificate. If the sale certificate is allowed to be registered, it will go contrary to the earlier registration that was made of the discharge receipt on 21.03.2024. The discharge receipt was registered on 21.03.2024 and the sale certificate was issued in favour of the 2nd petitioner on 28.03.2024. This is another issue for which there is no answer.

6. This Court does not find any illegality in the refusal check slip that was issued by the 2nd respondent, refusing to register the sale certificate since the discharge receipt is still in force and it has also been registered and has neither been cancelled nor reversed in the manner known to law.



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7. During the pendency of this writ petition, the petitioner has sought for amendment to quash the discharge receipt dated 21.03.2024. This Court exercising its jurisdiction under Article 226 of the Constitution of India cannot cancel the document more particularly when the 3rd respondent is not before this Court. Therefore, the discharge receipt dated 21.03.2024 has to be cancelled/annulled/reversed in the manner known to law and only thereafter, the sale certificate can be presented for registration and in which event, it will be entertained by the 2nd respondent.

8. In the result, the writ petition stands dismissed. No costs.

04.02.2025

Index : Yes/No
NCS : Yes/No
KP

To

1. Inspector General of Registration
100, Santhome High Road
Chennai 600 028.

2. The Sub Registrar
Office of the Sub Registrar
Purasawalkam
Chennai 600 023.



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N.ANAND VENKATESH, J.

KP

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