BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.02.2025

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THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

W.P.(MD)No.3936 of 2025
and W.M.P(MD).No.2858 of 2025

M.Maria Antony ... Petitioner

vs.

The Joint Sub-Registrar No-I,
Kanyakumari at Nagercoil. ... Respondent

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records relating to the impugned orders of the respondent dated 27.11.2024 and 30.12.2024 and quash the same.

For Petitioner : Mr.H.Arumugam
For Respondent : Mr.P.T.Thiraviam
Government Advocate

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**O R D E R**

This writ petition seeks to quash the proceedings of the respondent dated 27.11.2024 and 30.12.2024, whereunder, alleged deficit stamp duty was called upon to be paid by the respondent.

2. The property situated in S.Nos.Q7/2, Q7/3 and Q7/4 of Vadiveeswaram Village, Agasteeswaram Taluk, Kanyakumari District, was owned by a proprietorship firm under the name and style of M/s.Shajahan Jewelers. The said Shajahan Jewelers had availed financial assistance from Karur Vysya Bank, Nagercoil Branch. On account of the default committed in repayment of the loans, Karur Vysya bank brought the property for public auction invoking the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as SARFAESI Act). In the sale, the writ petitioner was the successful purchaser. Pursuant thereto, Karur Vysya Bank also issued a sale certificate on 07.07.2023. The Karur Vysya Bank attempted to file the said document invoking Section 89 of the Registration Act. However, it was not fruitful. Hence,

the petitioner presented the sale certificate for registration after payment of the appropriate stamp duty and registration charges. The sale certificate was also registered as Doc.No.2827 of 2023.

3. Subsequently, the respondent had issued the impugned proceedings claiming that the valuation on the basis of which the petitioner had purchased the property was improper and therefore, he has to pay a sum of Rs.4,21,035/- as deficit stamp duty and registration charges. The petitioner approached the respondent and informed him that the purchase was made under SARFAESI Act and hence, the question of application of Section 47A of the Indian Stamp Act does not arise. Despite the specific plea taken by the petitioner, the impugned order came to be passed. Hence, this writ petition.

4. I have heard Mr.H.Arumugam for the petitioner and Mr.P.T.Thiraviam, learned Government Advocate, who takes notice for the respondent. I have gone through the records.

5. Alienation by a bank under the SARFAESI Act presupposes that valuation had been done in accordance with SARFAESI Rules. In terms of Rules 8 and 9 of Security Interest (Enforcement) Rules, 2002, the authorized officer is called upon to value the property and bring it for public auction. This is the case of public auction and not a sale by private treaty. It has been settled by catena of judgments of this Court and specifically in ***V.N.Devadoss Vs., Chief Revenue Control Officer cum Inspector and others, (2009) 7 SCC 438*** that where a property is sold in a public auction, Section 47 A is in-applicable. When the position of law has been clearly laid down by this Court, I am not in a position to sustain the impugned order. Consequently, this Writ Petition is allowed and the impugned proceedings of the respondent dated 27.11.2024 and 30.12.2024 are quashed. No costs. Consequently, connected Miscellaneous Petition is closed.

**18.02.2025**

Index :Yes / No
Internet :Yes / No
NCC :Yes / No
*Rmk*

To

The Joint Sub-Registrar No-I,
Kanyakumari at Nagercoil.

**V. LAKSHMINARAYANAN, J.**

*Rmk*

W.P.(MD)No.3936 of 2025

18.02.2025