



W.P(MD)No.12806 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.06.2025

CORAM:

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P(MD)No. 12806 of 2025

and

W.M.P(MD)No.9243 of 2025

Tamilnad Mercantile Bank Limited,
Represented by its Authorised Officer,
Rajapalayam Branch,
Aishwarya Complex,
391, Tenkasi Road,
Rajapalayam 626 117.
Virudhunagar District.

... Petitioner

vs.

1. The Sub-Registrar,
Office of the Sub Registrar,
Watrap, Virudhunagar District.
2. Mr.V.Prabu Balasubramania Kumar
3. M.V.B. Sivakumar
4. M.V.B.Veerakumar
5. Vijayalakshmi
6. M.Kaleeswaran

...Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a *Writ of Certiorarified Mandamus*, calling for the records related to the impugned Refusal check slip passed by the 1st respondent in



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RFL/WATRAP/14/2024 dated 29.11.2024 and quash the same and consequently direct to the 1st respondent, Sub-Registrar, Watrap, Virudhunagar District to cause an entry in the Encumbrance Records to reflect in the encumbrance certificated notifying that the entry under Court Orders in Document No.09 of 2021 registered on 26.07.2021 stands canceled simultaneous to the registration of the sale certificate executed by the petitioner bank in favour of the 6th respondent in respect of the schedule mentioned property.

For Petitioner : Mr.N.Dilipkumar
For Respondents : Mr.S.Saji Bino,
Special Government Pleader, for R-1
Mr.G.Aravinthan, for R-3
R-4 – Died
R-6 No appearance
R-2 & R-5 notserved Tapal returned

ORDER

The present Writ Petition has been filed for *Writ of Certiorarified Mandamus* to quash the impugned Refusal check slip in RFL/WATRAP/14/2024 dated 29.11.2024 and consequently direct to the 1st respondent, Sub-Registrar, Watrap, Virudhunagar District to cause an entry in the Encumbrance Records.

2. The petitioner is Tamil Mercantile Bank Limited. The Bank had sanctioned a loan to the 3rd respondent, who had mortgaged the disputed property in favor of the petitioner Bank. Upon default in repayment by the 3rd respondent,



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the Bank initiated proceedings under the SARFAESI Act and duly issued a demand notice in compliance with Section 13(2) of the Act. Consequently, a sale certificate was issued in favor of the auction purchaser. However, the Registrar raised an objection, citing that a partition suit is pending among the respondents 2 to 6.

3. The petitioner contends that, in the said partition, the parties have deliberately allocated the disputed property to a person other than the borrower, thereby depriving the Bank of its rights over the mortgaged property.

4. The learned Special Government Pleader appearing for the 1st respondent submitted that, in the partition suit, a final decree has also been passed. As per the decree, a portion of the disputed property was allotted to another co-sharer and therefore, the entire disputed property does not belong to the borrower. However, the petitioner Bank is claiming rights over the entire extent. Since a portion of the property was allotted to other legal heirs, the petitioner bank is not entitled to claim the whole.

5. Nevertheless, it is a settled proposition of law that if a mortgage is created in favor of the Bank, any subsequent claim arising after the mortgage cannot override the Bank's rights over the mortgaged property.



6. The similar issue was also decided by this Court vide order dated

19.10.2024 in W.P(MD)No. 15451 of 2024. The relevant paragraph Nos.21 & 22

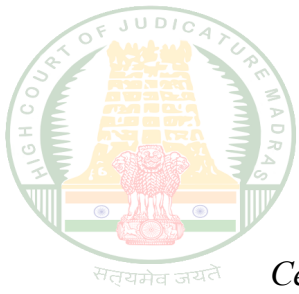
are extracted hereunder:

....

“21. With regard to deletion of the entry, namely, the attachment in favour of the 2nd respondent, we do not find any provisions in the Registration Act which permit the registering authorities to delete an entry which is already finding place in the Encumbrance Register/Certificate. However, in terms of the customary practice and well settled procedure, the Registrar is duty bound to cause a contra entry stating that the said attachment in favour of the 2nd respondent stands raised in view of the exercise of the priority right by the Petitioner Bank by bringing the property for sale in public auction and consequently, conveying the said property in favour of the auction purchaser, Mrs.Kala Ramu. Insofar as this limb of the prayer, we therefore direct the 1st respondent to make an entry in the Encumbrance Records to reflect in the Encumbrance Certificate, notifying that the attachment in favour of the 2nd respondent in entry, Document No.04 of 2022 dated 05.01.2022, stands cancelled in view of the auction sale conducted by the Petitioner Bank in favour of Mrs.Kala Ramu on 31.08.2023 and consequent registration of the sale certificate which is also being ordered in this writ petition.

22. In fine, the writ petition is disposed of in the manner following:

(i) The 1st respondent shall register the Sale Certificate dated 04.10.2023, issued by the petitioner Bank, within a period of two weeks from the date of receipt of a copy of this order.



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(ii) The 1st respondent shall cause an entry in the Encumbrance Certificate cancelling the attachment order in favour of the 2nd respondent in Document No.04 of 2022 dated 05.01.2022, simultaneous to the registration of the Sale Certificate in favour of the auction purchaser as directed in Clause (i) herein above.

(iii) There shall be no order as to costs.

7. In view of the above, this Writ Petition is allowed. The impugned refusal slip in RFL/WATRAP/14/2024 dated 29.11.2024 is hereby quashed. The 1st respondent is directed to register the sale deed and thereafter make the corresponding contra entry of the sale within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

19.06.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes
KSA

To
The Sub-Registrar,
Office of the Sub Registrar,
Watrap, Virudhunagar District.



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S.SRIMATHY, J.

KSA

**ORDER MADE IN
W.P(MD)No.12806 of 2025**

DATED :19.06.2025