IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05-08-2026

CORAM

THE HON'BLE MR JUSTICE KRISHNAN RAMASAMY

W.P. No. 46648 of 2025

M/s. Tata Capital Housing Finance Ltd.
Rep. by its Authorized Officer, P.Ramalingam
S/o.Palanisamy, Centennial Square
5th Floor, 6A Dr.Ambedkar Road, Kodambakkam
Chennai-600 024 ..Petitioner

Vs

1.The Income Tax Department
Aayakar Kaaryaalay
121, MG Road, Nugnambakkam
Chennai-600 034

2.The Inspector General of Registration
Registration Department
No.100, Santhome High Road, Chennai

3.The Sub Registrar
Joint-II, Tiruvallur, Chennai ..Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India, praying for an issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent and to quash the Refusal No.RFL/Thiruvallur Joint 2/33/2025, dated 22.10.2025 and direct the third respondent to register the Sale Certificate issued by the petitioner in favour of the Auction purchaser upon re-presenting the same.

For Petitioner	:	Mr.R.Sreedhar
For Respondents	:	Mr.Clint Li Johny Senior Standing Counsel for Ms.C.P.Priya Senior Standing Counsel for R-1

Mr.Dominic S. David
Special Government Pleader

ORDER

Challenge made in this Writ Petition is to the Refusal Check Slip bearing No.RFL/Thiruvallur Joint 2/33/2025, dated 22.10.2025 on the file of the third respondent and consequential direction to the third respondent to register the Sale Certificate issued by petitioner in favour of the Auction Purchaser upon re-presentation of the same.

2. Learned counsel for the petitioner submitted that the property situated at Plot No.82, Eastern Portion measuring 900 sq. ft. out of 1800 sq. ft. in Ganga Nagar in approved layout vide CSAR/DTCP.M87/373 L.P.No.268 comprised in S.Nos.94/1 and 94/2 of Sevapettai Village, Thiruvallur Taluk and District together with the residential house situated within the Sub Registration District of Thiruvallur and Registration District of Thiruvallur was mortgaged with the petitioner on 24.03.2014 by the original borrower P.Siva and D.Gayathri. Due to non-payment of the loan, the said loan account was classified as Non-Performing Asset which resulted in bringing the subject property for sale in public auction by due process of law and accordingly, one S.Rani participated in the e-auction and purchased the same. Therefore, she was declared as successful bidder. In pursuance of the same, a Sale Certificate dated 07.07.2025 was also issued by the petitioner. In the meanwhile,

subsequent to the mortgage of the subject property, the first respondent Department passed an order of attachment on 23.04.2021. Now, when the auction purchaser presented the Sale Certificate for registration before the third respondent, the third respondent refused to register the sale certificate issued by the petitioner in favour of the auction purchaser citing the reason that there was an order of attachment in respect of property by the first respondent. Challenging the same, the present Writ Petition has been filed.

3. The learned counsel appearing for the third respondent submitted that according to the petitioner, the petitioner is the first charge holder and the first respondent is the second charge holder. However, as per Section 26-E of the SARFAESI Act, Chapter IV-A (Sections 26-B to 26-E) operates prospectively from 24.01.2020 on a "first-to-register" basis. Therefore, in any event, any priority is confined to the petitioner's genuine secured dues, and the surplus realised at sale against an outstanding dues of Rs.14,56,726/- belongs to the revenue under Section 13(7) of the SARFAESI Act and under the very order in LIC Housing Finance relied upon by the petitioner. He further submitted that out of 1800 sq. ft., the mortgage extends only to the extent of 900 sq. ft. in the eastern portion and the attachment over the unencumbered residue subsists. Therefore, after adjusting the outstanding due of the petitioner from out of the sale proceeds, the surplus amount shall be deposited with the first respondent.

4. The learned Special Government Pleader appearing for the respondents 2 and 3 submitted that since the first respondent made objection citing the reason that there was an order of attachment passed by the first respondent Income Tax Department, the third respondent could not register the sale certificate issued by the petitioner and passed the impugned order.

4. Heard the learned counsel on either side and perused the materials available on record.

5. Considering the submissions of the learned counsel on either side and on perusal of the materials available on record, it is seen that out of 1800 sq. ft., only 900 sq. ft. in the eastern portion of the subject property was mortgaged with the petitioner by the borrowers one P.Siva and D.Gayathri on 24.03.2014 and thereby the petitioner becomes the first charge holder. As far as the remaining 900 sq. ft. in the western portion is concerned, it is an unencumbered property. Therefore, since the mortgage was made in favour of the petitioner on 24.03.2014 and subsequent to the said mortgage, an attachment was made by the first respondent Income Tax Department on 23.04.2021, certainly the petitioner is the first charge holder and the first respondent is the second charge holder. Hence, being a first charge holder, the petitioner brought the subject property for public auction and sold it to one P.Rani. Therefore, after realisation of the petitioner's due, if anything is surplus, the petitioner is

supposed to deposit the balance amount to and in favour of the first respondent as suggested by the first respondent in their counter in paragraph 6. As far as the remaining portion of 900 sq. ft. in the western portion of the subject property is concerned, the order of attachment dated 23.04.2021 will continue and the first respondent would be considered as a first charge holder as on date. Therefore, there is no impediment for the third respondent to register the Sale Certificate dated 07.07.2025 issued by the petitioner in favour of the auction purchaser.

6. In the light of the above discussion, the impugned Refusal Check Slip No.RFL/Thiruvallur Joint 2/33/2025, dated 22.10.2025 issued by the third respondent is set aside. Accordingly, this Writ Petition is allowed. The auction purchaser shall re-present the Sale Certificate dated 07.07.2025 issued by the petitioner before the third respondent forthwith. Upon presentation of the said Sale Certificate, the third respondent is directed to register the same forthwith. No costs.

05-08-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No
SRM

KRISHNAN RAMASAMY, J.

SRM

To

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   Aayakar Kaaryaalay
   121, MG Road, Nugnambakkam
   Chennai-600 034

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   Registration Department
   No.100, Santhome High Road, Chennai

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