

**HIGH COURT OF JAMMU & KASHMIR AND LADAKH
AT JAMMU**

Case:- WP(C) No.91/2024
c/w
CCP(S) No.86/2024

M/S MG one Jammu

..... Petitioner(s)

Through: Mr. Paras Gupta, Advocate

Vs

UT of J&K & Ors.

.....Respondent(s)

Through: Ms. Monika Kohli, Sr. AAG , Advocate

Coram: HON'BLE MR. JUSTICE SANJAY DHAR, JUDGE

ORDER
(30.09.2025)

WP(C) No.91/2024

1. The petitioner, through the medium of the present writ petition, has sought a direction upon the respondents to register the certificate of sale dated 24.08.2023 issued in favour of the petitioner in respect of immovable properties, namely, 4 kanals, 10 marlas in khasra No.44, land measuring 3 kanals, 17 marlas in khasra No.48 and land measuring 1 kanals in khasra No.44, situated in the revenue estate at Narwal Bala, Bye Pass Road, Jammu. A further direction has been sought to direct the respondents to attest mutation of the aforesaid land, including the building erected thereupon as mentioned in

the certificate of sale dated 24.08.2023 in favour of the petitioner, without insisting for affixation of Stamp Duty.

2. It appears that the property in question belonging to M/S Kash-Ind Roller Flour Mills, Narwal Bala, was offered as security by the said entity for availing financial facilities from the State Bank of India. It also appears that the aforesaid borrower defaulted in the re-payment of loan amount, consequently, the Bank initiated proceedings under the SARFAESI Act, 2002, against the borrowers, pursuant where to the property in question was put to auction.
3. The petitioner, it appears, has emerged as the highest bidder in the said auction and accordingly, the property in question has been purchased by it by way of an auction in respect of which the State Bank of India has executed Certificate of Sale in terms of Rules 8 & 9 of the Security Interest (Enforcement) Rules, 2002 on 24.08.2023.
4. The authorized officer of the State Bank of India vide its communicated dated 28.09.2023 sent certified copy of the Certificate of Sale to respondent No.3-Sub Registrar, Jammu South for its registration/pasting in Book No.1, as per the provisions of Section 89 (4) of the Registration Act, 1908. Thereafter, the petitioner approached the office of learned Sub Registrar (respondent No.3) multiple times for registration of the Certificate of Sale but needful was not done by the said office, which forced the petitioner to

approach the office of respondent No.2 with a written representation. However, no action was taken by the respondents in the matter, as a result of which, the Certificate of Sale was not admitted to registration by the respondents, presumably on the ground that the petitioner has not paid the Stamp Duty.

5. Heard and considered.
6. The question which falls for determination before this Court is as to whether Stamp Duty is payable for the purpose of registration of certificate of sale. In this regard, provisions of Section 17 of the Registration Act are required to be noticed. Section 17(1) of the Registration Act, provides that certain types of documents are compulsorily registrable. These documents include instruments of sale, gift of immovable property and other non-testamentary instruments which purport or operate to create, declare, assign, limit or extinguish, any right or interest in any immovable property. However, sub section (2) of Section 17 provides that certain other types of documents are not compulsorily registrable. Clause (12) of sub-section (2) of Section 17 enumerates Certificate of Sale granted to the purchaser of any property sold by public auction by a Civil or Revenue-Officer as a document which is not compulsorily registrable.
7. Another important provision which is required to be noticed in the context of issue raised in the present

petition is Section 89 of the Registration Act. Sub Section (4) of Section 89 of the Registration Act provides that a Revenue Officer granting a certificate of sale to the purchaser of immovable property sold by public auction shall send a copy of the registration to the Registering Officer within the local limits of whose jurisdiction the whole or any part of the property comprised in the certificate is situated and such official shall file a copy in Book No.1.

8. A conjoint reading of Section 17 (2) and Section 89 (4) of the Registration Act, 1908, leads us to the conclusion that a certificate of sale granted to an auction purchaser by a civil or revenue officer is not a compulsorily registrable document, meaning thereby that such a document is not required to be registered by law. The only requirement is that the authorised officer granting a certificate of sale to an auction purchaser of immovable property has to send the copy of the said certificate to the Registering Officer having jurisdiction, who shall file a copy in Book No.1 as per Section 89 of the Registration Act.
9. The Supreme Court, in the case of "*The State of Punjab & Anr. Vs. M/S Ferrous Alloy Forgings P. Ltd. & Ors.*" 2024 INSE 890, after noticing the ratio laid down by it in its previous judgments on the aforesaid issue, has made the following observations.

(i) Recently, a three-Judges Bench of this Court in *M/s Esjaypee Impex Private Limited Vs. The Asst. General Manager and Authorized Officer Canara Bank* reported in (2021) 11 SCC 537 observed that the mandate of law that flows from a combined reading of Sections 17(2) (xii) and 89(4) of the Registration Act respectively is that the auction purchaser is entitled to receive the original sale certificate and a copy of the same is required to be forwarded to the Sub-Registrar for the purpose of filing in Book 1 as per the Registration Act.

(ii) In *Inspector General of Registration and Another Vs. G. Madhurambal & Anr.* Reported in 2022 SCC Online Sc 2079, a two-Judge Bench of this Court observed that the consistent position of law is that a certificate of sale cannot be regarded as a conveyance subject to stamp duty. The Court further observed that once a direction is issued for the duly validated certificate to be issued to the auction purchaser with a copy forwarded to the registering authorities with a copy forwarded to the registering authorities to be filed in Book I as per Section 89 of the Registration Act, it has the same effect as registration and requirement of any further action is obviated.

(iii) The position of law discussed above makes it clear that sale certificate issued by the authorized officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the sale certificate is forwarded by the authorized officer to the registering authority. However, a perusal of Articles 18 & 23 respectively of the first schedule to the Stamp Act respectively make it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that the

requirement of payment of stamp duty, etc. would arise.

10. For the foregoing analysis of legal position, it comes to the fore that Certificate of Sale issued by authorised officer in favour of an auction purchaser is not a document which is compulsorily registrable and a copy of such certificate is only required to be forwarded to the Sub-Registrar concerned, who, upon receipt of the same, has to file it in Book No.1 and there is no need for its registration. In fact filing of the Sale Certificate in Book No.1 of the Sub Registrar has the same effect as registration and there is no need of registration. Thus, there is no requirement of payment of Stamp Duty in such cases.
11. In view of what has been discussed hereinbefore, respondent No.3 is directed to take action in respect of the Certificate of Sale dated 24.08.2023, issued in favour of the petitioner in tune with the requirements of Section 84(4) of the Registration Act without insisting upon the payment of Stamp Duty.
12. The petition stands *disposed of*.

CCP(S) No.86/2024

The instant contempt petition arises out of interim order dated 01.03.2024 passed in the main petition. Since the main petition has been decided by virtue of order passed today, as such, the interim order has merged with the final order passed in

the writ petition. The contempt proceedings, therefore, do not survive. The same are accordingly closed. The petition stands *disposed of*.

(SANJAY DHAR)
JUDGE

JAMMU
30.09.2025
Sneha

