

Company Application No.1171 of 2014
in
C.P.No.13 of 2000

V.RAMASUBRAMANIAN, J

ORDER

This application is filed for a direction to the Official Liquidator to revalidate the sale deed dated February 2014 in order to register the same before the Sub-Registrar.

2. I have heard Mr.M.Rajendiran, learned counsel for the applicant and the learned Official Liquidator.

3. In a public auction dated 21.03.2013, one M.Velmurugan had purchased the Plot No.296 measuring an extent of 6070 sq. ft. comprised in Survey No.166/11B and 165/1B at Podavur Village, Sriperumbudur Taluk, Kancheepuram District for a sale consideration of Rs.22,45,900/- at the rate of Rs.370/- per sq.ft. and on payment of entire sale consideration, this Court confirmed the sale in favour of the said M.Velmurugan by an order dated 30.04.2013 made in C.A.No.75/2013 in C.P.No.130/1999 and C.A.No.88/2013 made in C.P.No.13/2000. Further this court directed the Official Liquidator to execute the sale deed in favour of M.Velmurugan or his nominees.

4. Thereafter, the said M.Velmurugan requested the Official Liquidator to execute the sale deed in favour of the applicant and the Official Liquidator also accepted to execute the sale deed in favour of the applicant.

When the applicant approached the Sub-Registrar to register the sale deed along with registration charges, the Sub-Registrar has refused to register the sale deed stating that the registration could not take place beyond the stipulated time of 120 days from the date of the letter issued by the Official Liquidator. Therefore, the petitioner has come up with the above application.

5. It is the contention of the applicant that due to family circumstances, he could not present the sale deed before the Sub-Registrar, within the statutory period, as provided for, in Section 23 of the Registration Act, 1908, which is as follows:-

"23. Time for presenting documents:- Subject to the provisions contained in sections 24, 25 and 26, no document other than a will shall be accepted for registration unless presented for that purpose to the proper officer within four months from the date of its execution:

Provided that a copy of a decree or order may be presented within four months from the day on which the decree or order was made, or, where it is appealable, within four months from the day on which it becomes final."

6. Admittedly, sale deed has not been presented for registration before the proper officer, within a period of four months, from the date of execution. If any document is presented within four months, from the date of its execution, then, the proper registration fee is collected. But, if there is a delay in presenting the document, beyond four months, from the date of execution, then, as per Section 25 of the Registration Act, 1908, the

Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee and such document shall be accepted for registration. Section 25 of the Act, reads as follows:-

"(1) If, owing to urgent necessary or unavoidable accident, any document executed, or copy of a decree or order made, in India is not presented for registration till after the expiration of the time herein before prescribed in that behalf, the Registrar, in cases where the delay in presentation does not exceed four months, may direct that, on payment of a fine not exceeding ten times the amount of the proper registration-fee, such document shall be accepted for registration.

(2) Any application for such direction may be lodged with a Sub-Registrar, who shall forthwith forward it to the Registrar to whom he is subordinate."

7. Reading of Section 25 of the Registration Act, 1908, makes it clear that the Registrar has got powers to condone the delay of only four months in presenting a document, and in such case, may direct payment of a fine not exceeding ten times the amount of the proper registration-fee. Therefore, the maximum period or the outer limit, in which, a document could be presented, before the proper officer or Registrar, for registration of the document is eight months. If it is within the initial period of four months, then the applicant is required to pay proper registration fee. Beyond the eight months period, the Registrar has no power to condone the delay. That is

why, the applicant/auction purchaser of the assets of the company in liquidation, has sought for a prayer, to re-validate that sale deed.

8. As per Section 80 of the Registration Act, 1908, all fees for the registration of documents under the Act, shall be payable on the presentation of such documents. Section 80-A is inserted by the Tamil Nadu Act 31 of 1982, with effect from 05.09.1983, which is as follows:-

"80A. Recovery of deficit registration fees:-

(1) Notwithstanding anything contained in Section 80, if after the registration of document, it is found that the fee payable under this Act in relation to that document has not been paid or has been insufficiently paid, such fee or the deficit in the fee paid, as the case may be, may, on a certificate of the registering officer be recovered from the person who represented such document for registration under Section 32, as an arrear of a land revenue:

Provided that no such Certificate shall be granted unless due inquiry is made and such person is given an opportunity of being heard:

Provided further that no such inquiry shall be commenced after the expiry of such period, after the date of the registration of the documents, as may be prescribed.

(2) The certificate of the registering officer under sub-section (1) shall, subject to appeal under sub-section (3), be final and shall not be called in question in any Court or before any authority.

(3) Any person aggrieved by a certificate of the

registering officer under sub-section (1) may appeal to the Registrar if it is a certificate of the Sub-Registrar, or to the Inspector-General of Registration if it is a certificate of the Registrar. All such appeals shall be preferred within such time and shall be heard and disposed of in such manner, as may be prescribed. "

9. The learned counsel for the applicant submitted that the applicant is willing to pay fine amount not exceeding ten times the amount of proper registration-fee. As per the details furnished, sale deed ought to have been presented before the Proper Officer, within four months, from the date of its execution or within the grace period of four months, subject to the Registrar satisfying the reasons specified in Section 25 of the Act. He has the power to impose fine, not exceeding ten times of the proper registration-fee.

10. In the present case, sale deed was executed by the Official Liquidator on 26.02.2014. Four months time from the date of execution of the sale deed was 25.06.2014. Grace period of four months with penalty was 24.10.2014. But, it was presented by the applicant before the Sub-Registrar only on 20.11.2014. The reason assigned by the applicant is due to family circumstances he could not present the sale deed for registration within the stipulated time.

11. As per the statutory provision, the Registrar cannot condone the delay, beyond the extended period of four months. Had the sale deed been presented, within the outer limit period of four months, then the Registrar could have exercised his powers to condone the delay, provided the

reasons assigned are satisfactory. As stated supra Section 25 of the Act, empowers imposition of fine amount, not exceeding ten times the amount of the proper registration-fee, only if the document is presented, within the outer limit of four months.

12. Even taking it for granted that the sale deed is re-validated, for the purpose of registration, the registration fee for registering the document, shall be the fee payable on the date of presentation of the same. The applicant has made huge investments. Merely because, presentation of document, is beyond the statutory period, his rights under the sale deed, should not be affected for the reason that this Court had already confirmed the sale.

13. Therefore, while directing the Official Liquidator, High Court, Madras, respondent herein, to re-validate the sale deed, this Court makes it clear that on such re-validation, the purchaser/applicant shall pay registration fee, payable on the date of presentation, as per Section 80 of the Registration Act, within the period provided for, under Section 23 of the Act. Re-validation has to be done, within a period of two weeks, from the date of receipt of a copy of this order. Time for presentation would start from the date of receipt of revalidation orders from the Official Liquidator, High Court, Madras.

14. With the above direction, the application is ordered.

09.04.2015

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V.RAMASUBRAMANIAN, J

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