

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.03.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32654 of 2014

International Asset Reconstruction

Company Private Limited,

Rep by its Authorised Signatory,

No.2-B, K.G.Retreat,

Old No.119, New No.26,

G.N.Chetty Road,

T.Nagar, Chennai - 600 017. ...

Petitioner

vs.

1.The Inspector General of Registration,
Santhome High Road,
Chennai - 600 028.

2.The District Registrar,
Kancheepuram District,
Kanchipuram.

3.The Sub Registrar,
Chengalpet.

.. Respondents

Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the third respondent to register the Assignment Deed dated 28.03.2013, which was presented for registration on 17.04.2013 in accordance with G.O.Ms.No.21/CT dated 04.03.2005, Notification-1&II, without insisting on further payment towards Stamp Duty or Registration Charges and return the Assignment Deed dated 28.03.2013 after completing the registration formalities within a time limit that may be fixed.

For Petitioner : Mr.B.Harikrishnan
For Respondents : Mr.S.Gunasekaran,
Government Advocate

O R D E R

Heard Mr.B.Harikrishnan, learned counsel for petitioner and Mr.S.Gunasekaran, learned Government Advocate for respondents.

2. The petitioner is an Asset Reconstruction Company registered under Section 3 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI). The petitioner entered into an Assignment Deed dated 28.03.2013 at Chennai with City Union Bank Ltd., under which the City Union Bank has assigned loans together with rights, title and interest in the financing documents and all underlying Security Interests, Pledges and Securities in respect of said loans which the assignor had extended financial assistance to M/s.Midtown Manufacturing India Pvt. Ltd., which is a borrower and the Assignment Deed was entered into under Section 5(1) (b) of the SARFAESI Act.

3. When the petitioner presented the document for registration along with Stamp Duty which required to be remitted in terms of G.O.Ms.No.21/CT dated 04.03.2005, the respondents refused to entertain the document for registration on the reasoning that unless and until the proper Stamp Duty and Registration Charges are paid, the same cannot be registered.

4. According to the petitioner in terms of G.O.Ms.No.21/CT dated 04.03.2005, such demand cannot be made, more particularly, when the nature of the transaction between the petitioner and City Union Bank is in the nature of assignor and assignee and it is pursuant to the power conferred under Central Enactment viz., SARFAESI Act.

5. On written instruction from the respondents, learned Government Advocate submits that the third respondent has sent a communication to the petitioner requesting for production of RBI Certificate in this regard and the said letter dated 19.02.2015 has been sent by Speed Post on 25.02.2015.

6. It is seen that the said communication dated 19.02.2015 has been addressed to a person who appears to be the Vice President of the petitioner company. The document which has been produced for registration is between the City Union Bank and the petitioner company. Therefore, the third respondent should have addressed the letter to the company. It is seen that letter has been addressed only recently, that too, after this Court adjourned the matter on 13.02.2015. Be that as it may, the only requirement the third respondent has called for is a certificate from Reserve Bank of India.

7. Learned counsel for petitioner submits that the petitioner is ready and willing to produce the certificate, if the respondents are ready to accept the stamp duty remitted by the petitioner following G.O.Ms.No.21/CT dated 04.03.2005.

8. It is to be pointed out that the Inspector General of Registration while considering the stamp duty payable in respect of

similar document vide order dated 21.06.2011 in Pa.Mu.No.3805/P1/2010, held that G.O.Ms.No.21/CT dated 04.03.2005 would be applicable and the stamp duty payable is Rs.1,00,000/-. This is also one more reason for the third respondent to register the document by accepting the stamp duty remitted by the petitioner.

In the light of the above, the writ petition is disposed of, by directing the petitioner to produce the RBI certificate by appearing in person before the third respondent along with a copy of this order and on receipt of the same, the third respondent shall consider the certificate and by taking note of the above observation, register and release the document within a period of two weeks from the date of receipt of a copy of this order, if it is otherwise in order. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

gm/ds

To

- 1.The Inspector General of Registration
Santhome High Road,
Chennai - 600 028.
 - 2.The District Registrar,
Kancheepuram District,
Kanchipuram.
 - 3.The Sub Registrar,
Chengalpet.
- 1 cc to Mr. B.Harikrishnan, Advocate, SR.No.15093
1 cc to Government Pleader, Sr.No16067

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