

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE:16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.20240/2016

M/s.Haywood Hospitality India [Pvt] Ltd
rep.by its Manager, 1st Floor,
Gujarat JHM Hotels Ltd., Ambicaniketan
Surat, Gujarat 395007.

..Petitioner

-Versus-

1.The Sub Registrar

Vanur Sub Registration Office
2/97-A, Mailam Pandy Road
Vanur, Villupuram District 605109.

2.The District Registrar
Tindivanam.

3.The Deputy Inspector General of Registration
No.50, Shankara Naidu Street,
Thirupathiripuliyur, Cuddalore 607007.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the 1st respondent to consider the representation dated 19.01.2016 in the light of Article 18 to the schedule u/s.3 of the Indian Stamp Act and release the Sale Certificate registered as Document No.5452/2015 within the time stipulated.

For Petitioner :Mr.M.Devaraj
For RR 1 to 3 :Mr.R.Govindasamy,
Spl.Govt.Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner / company had participated in the auction held on 11.09.2015 conducted by the Authorised Officer of the State Bank of India with regard to the auction of the

property situated in Re-survey No.224/6B, Bommiar Palayam Village, Tindivanam Taluk, Vanur Sub Registration District, admeasuring to an extent of 39 cents in the form of re-auction Sale Notice dated 06.08.2015 and became the successful bidder and paid the entire sale consideration of Rs.3,00,98,000/- and the Authorised Officer has also issued the Sales Certificate in favour of the petitioner on 28.09.2015. It was also presented for registration before the 1st respondent who registered the same in Document No.5452/2015. The grievance expressed by the petitioner is that though the sale certificate has been registered, it is yet to be returned to the petitioner by the 1st respondent and therefore, the petitioner is constrained to approach this Court by filing the present writ petition.

3 The learned counsel for the petitioner has drawn the attention of this Court to Schedule-I, Article 18 of the Indian Stamp Act, 1899, and would submit that in the light of the said provision coupled with very many judgments, which laid down the proposition that once the document is registered, it cannot be retained by the Registering Authority ; but it should be forthwith returned to the person concerned and prays for appropriate orders.

4 This Court heard the submissions of Mr.R.Govindasamy, learned Special Government Pleader who accepts notice on behalf of the respondents.

5 It is a settled position of law that once a document is registered, it cannot be retained. A Single Bench of this Court, vide order dated 29.02.2016 made in WP.No.28343/2015 [P.Pandian Vs. The Inspector General of Registration, Santhome High Road, Chennai and another], has considered similar issue and had taken into consideration, the decisions reported in AIR 2013 MAD 73 [Dr.Meera Thinakaran Vs. State of Tamil Nadu and 2 others] and AIR 2010 KER 124 [Madhavan Vs. Sub-Registrar] and held that the sale certificate issued by the Recovery Officer under SARFAESI Act doe no amount to transfer of property and it is a document evidencing the factum of statutory sale and the stamp duty is to be collected under Article 18 of the Indian Stamp Act, i.e., only at 5% and the question of calculating the surcharge at the rate of 2% does not arise.

6 In the light of the facts and circumstances coupled with the above said legal position, the 2nd respondent is directed to act on the communication of the 3rd respondent in O.Mu.No.341/Aa/2016 dated 02.02.2016 and take a decision within a period of two weeks from the date of receipt of a copy of this order and inform the petitioner.

7 The writ petition is disposed of with the above direction. No costs.

AP

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The Sub Registrar
Vanur Sub Registration Office
2/97-A, Mailam Pondy Road
Vanur, Villupuram District 605109.
 - 2.The District Registrar
Tindivanam.
 - 3.The Deputy Inspector General of Registration
No.50, Shankara Naidu Street,
Thirupathiripuliyur, Cuddalore 607 007.
- + 1 cc to Mr.M.Devaraj, Advocate Sr 33024
- + 1 cc to The Govt.Pleader, Sr 33300

KR/24/6/16

W.P.No.20240/2016

सत्यमेव जयते

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