

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2016

CORAM :

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.26260 of 2016

M/s.Sakthi Ferro Alloys India Private Limited,
Rep. by its Managing Director, Ka.Anandh
Old Door No.26, New No.28,
Loganathan Nagar, Second Street,
Choolaimedu, Chennai - 600 094. ...Petitioner

Vs

- 1.The Sub-Registrar,
Thiruvotriyur,
Chennai - 600 019.
- 2.The Chief Manager/Authorised Officer,
Stressed Assets Management Branch,
"Red Cross Buildings"
No.32, Montieth Road,
Egmore, Chennai - 600 008. ... Respondents

Petition filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the first respondent to register the document bearing No.P7/2015 on the file of the first respondent and return the same to the petitioner within the time frame.

For Petitioner : Mr.C.Munusamy
For Respondents : Mr.S.Pattabiraman
Government Advocate for R1

O R D E R

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

2. The petitioner claims to be the Managing Director of the company and he had purchased landed property ad measuring 49.40 cents along with building/factory shed situate at Plot Nos.52 and 53, SIDCO Industrial Estate, Vitchoor, comprised in S.F.No.197 of Vichoor Village, Manali, Chennai - 600 103 and another extent of property ad measuring 43.0 cents with

building/factory shed thereon comprised in Survey No.262/1A Patta No.141 of the very same village in a public auction conducted by the second respondent on 20.01.2014 for a sale consideration of Rs.1,84,14,000/- and a Sale Certificate dated 17.11.2014 was also issued by the second respondent. The grievance expressed by the petitioner is that though it was presented for registration, it was neither registered nor returned. In the mean while, the Commercial Tax Department has also started making claims in respect of the said property. Challenging the said proceedings, the petitioner filed W.P.No.36010 of 2015 and vide interim order dated 06.11.2015, further proceedings initiated by the said department has been stayed and therefore, prays for an appropriate order directing the first respondent to register and return the sale deed.

3. Per contra, the learned Government Advocate, who accepts notice on behalf of the first respondent would contend that the sale certificate issued by the Bank requires higher stamp duty, which the petitioner is not prepared to pay and hence, it is kept pending.

4. This Court has carefully considered the rival submissions made on either side and also perused the materials placed before it.

5. In the decision reported in 2016(3) TLNJ 241 (Civil) [P.Pandian v. The Inspector General of Registration], the impugned notice issued by the Sub-Registrar was challenged by the petitioner therein on the ground that Stamp Duty was payable only under Article 18 of the Stamp Act, whereas, the concerned Sub-Registrar has demanded excess amount as additional Stamp Duty. This Court after taking into consideration the relevant statutory provisions, wherein, it is stated that the Sale Certificate issued by the Recovery Officer of the Bank would not amount to transfer of property and also placing reliance upon the judgment of this Court reported in AIR 2013 MAD 73 [Dr.Meera Thinkaran v. State of Tamil Nadu and others] in so far as demand of additional stamp charges is concerned, this Court held that stamp duty has to be calculated under Article 18 of the Stamp Act i.e., only at 5% and the question of calculating surcharge at 2% does not arise.

6. In the light of the above facts and circumstances, this Court directs the first respondent to pass appropriate orders on the sale deed submitted by the petitioner, if the papers are otherwise in order, after taking note of the above said judgment, within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken to the petitioner.

The writ petition is disposed of accordingly. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

svki

To

1.The Sub-Registrar,
Thiruvotriyur,
Chennai - 600 019.

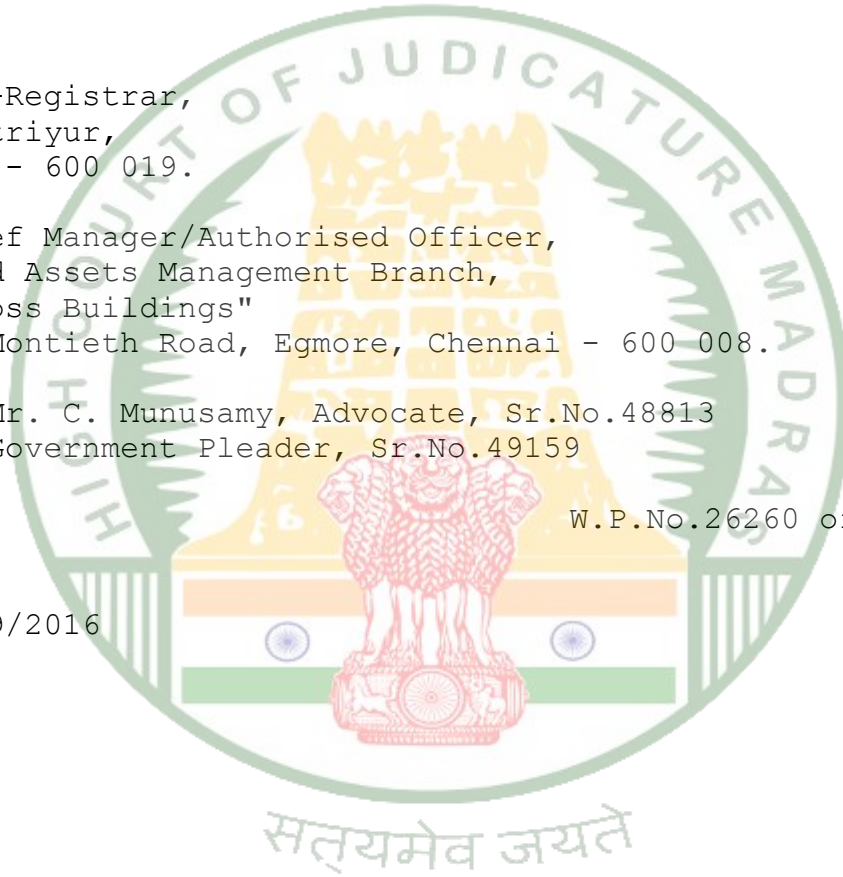
2.The Chief Manager/Authorised Officer,
Stressed Assets Management Branch,
"Red Cross Buildings"
No.32, Montieth Road, Egmore, Chennai - 600 008.

+1 CC to Mr. C. Munusamy, Advocate, Sr.No.48813

+1 CC to Government Pleader, Sr.No.49159

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RSY (CO)
MD : 15/09/2016



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