IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.8.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

W.A.No.1000 of 2016
and
C.M.P.No.13022 of 2016

1 District Registrar
(A.I.G.Cadre)-Chennai Central
Bharathi Salai Chennai-600 018

2 The District Revenue Officer-Stamps
Chennai-600 002

3 Joint Sub Registrar
Chennai Central Bharathi Salai
Chennai-600 018

4 Inspector General of Registration
No.100 Santhome High Road
Chennai-600 028 Appellants/Respondents 1 to 4

Versus

1 M/s.Lebara Hotels Pvt Ltd
formerly M/s.LBR Leisure & Hospitality
Services Pvt Ltd
Old No.228 New No.302
F.M.House Anna Salai Teynampet
Chennai-600 006
Rep by Authd.Signatory B.Karnakara

2 M/s.Siva Industries and Holdings Ltd
5th Floor Block-1 Beliciaa Towers
Door No.71/C M.R.C. Nagar
Main Road Raja Annamalaipuram
Chennai-600 028 ..Respondents/Petitioner/5th Respondent

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 27.5.2016 passed in W.P.No.15762 of 2016 writ petition filed under Article 226 of constitution of India praying to issue a writ of certiorarified mandamus Calling for the records pertaining to the impugned orders passed by the

3rd respondent in Letter No.55 of 2016 dated 28.3.2016 and the consequential order bearing No.55/2016 dated 30.03.2016 and quash the same and consequently direct the official respondents particularly the respondent NO.3 to forthwith unconditionally register and return to the petitioner the Sale Certificate in No.P. 97/2015 kept pending by the 3rd respondent on the file of this court.

For appellants : Mr.K.Venkataramani,
Additional Advocate General assisted by
Mrs.A.Srijayanthi, Special Govt. Pleader

For R1 : Mr.P.R.Rajagopal for
Fox Mandal & Associates

For R2 : Mr.H.Prosper

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the parties for some time.

2. The writ appeal is filed challenging the order passed by the learned Single Judge in quashing the order passed by the third appellant herein and directing to register the sale deed submitted by the first respondent herein and release the same.

3. It appears that the sale deed submitted by the writ petitioner/first appellant herein was withheld by the registering authority on the ground that during the course of audit objection, it was found that there was revenue loss to the tune of Rs.1,43,00,000/- as deficit stamp duty and Rs.10,99,975/- as deficit registration fees. It also appears that the sale deed in respect of the second respondent herein, the vendor of the first respondent was originally withheld on the ground of deficit stamp duty and subsequently on the basis of the order passed in W.P.No.24015 of 2003 filed by the second respondent herein, it was released on receipt of some deficit stamp duty and in the meantime, the property was subjected to SARFAESI proceedings and ultimately, the property was sold.

4. It is submitted by the learned counsel for the second respondent that the document having already been registered in favour of the original vendor viz., five years ago, now, they cannot withhold the subsequent document.

5. Learned Advocate General would submit that steps had already been taken to recover the deficit stamp duty well within time and the document was withheld for clearance of the amount but, somehow it has been released in favour of the original purchaser on the basis of the order from the court, but, ultimately as per Stamps Act the deficit stamp duty, if any, has

to be paid by the subsequent purchaser or by the vendors as the case may be.

6. In the facts and circumstances, it is for the vendor to pay the amount which is due to the Government with interest thereon for the remaining amount to the unpaid. Accordingly, we dispose of the writ appeal. It is for the respondent Government to proceed as against the vendor of the property either by proceeding to recover the deficit stamp duty or by attaching some other property of the vendor. Now it is submitted by the learned counsel for the first respondent herein that the document is now with the Government. Therefore, it is for the purchaser to extend their co-operation to the Government in collecting the deficit stamp duty and seek for release of the document. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

ssk.

To

1 District Registrar
(A.I.G.Cadre)-Chennai Central
Bharathi Salai Chennai-600 018

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Chennai-600 002

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Chennai Central Bharathi Salai
Chennai-600 018

4 Inspector General of Registration
No.100 Santhome High Road
Chennai-600 028

1 cc to Mr.H.Prosper, Advocate, sr.49529
1 cc to M/s.Fox Mandal & Associates, Advocates, sr.49539
1 cc to Government Pleader, sr.49817

W.A.No.1000 of 2016

ug co
kra 04.10.2016