IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 20.04.2017

CORAM

The Honourable MR. JUSTICE M.DURAISWAMY

W.P.No.9604 of 2017
and W.M.P.No.10700 of 2017

YarnComs India Pvt Ltd
rep by Mr.S.Ulaganathan
Authorised Signatory
Ware House S.F. No.262/Part
2b 3a and 4 Annur Road
Mopperipalayam Sulur Taluk
Coimbatore-641659 [Petitioner]

Vs

1 The Inspector General of Registration
No.100 Santhome High Road
Chennai-28

2 District Revenue Officer (Stamps)
District Collector Office
Coimbatore

3 The sub Registrar
Annur Coimbatore District

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified mandamus to call for the records pertaining to proceedings NO.Mu.Pa. No.339/ 2017 dated 27.03.2017 on the file of 2nd respondent and quash the same and consequently direct the 2nd respondent to return the Documents No.8570 of 2014 without insisting any additional stamp duty along with refund of excess stamp duty/ surcharge of 2% amounting to Rs.11,88,740 already paid by the petitioner in the registered Document No.8570/ 2015 on the file of the 3rd respondent.

For Petitioner : Mr.T.V.Suresh Kumar

For Respondents : Mr.A.N.Thambidurai, SGP

ORDER

Mr.A.N.Thambidurai, learned Special Government Pleader, takes notice for the respondents.

2. By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

3. The petitioner has filed the above writ petition to issue a writ of certiorarified mandamus to call for the records pertaining to the proceedings dated 27.03.2017 on the file of 2nd respondent and to quash the same and consequently direct the 2nd respondent to return the Document No.8570 of 2015, without insisting any additional stamp duty along with refund of excess stamp duty/surcharge of 2% amounting to Rs.11,88,740 already paid by the petitioner in the registered Document No.8570/2015 on the file of the 3rd respondent.

4. It is the case of the petitioner that the petitioner Company participated in the e-auction dated 01.01.2015 conducted by the State Bank of India, Stressed Assets Management Branch, Coimbatore under the provisions of the SARFAESI Act, 2002. Thereafter, the said Bank had declared the petitioner Company as a successful bidder and issued confirmation of sale on 01.10.2015. As per the terms and conditions of the e-auction, the petitioner Company had paid a sum of Rs.8,50,00,000/- (Rupees eight crore and fifty lakhs only) to the said Bank towards the sale consideration. After paying the entire auction amount to the said Bank, they have issued a sale certificate dated 17.11.2015 to the petitioner Company, as per the provisions of Rule 9(6) of the Security Interest (Enforcement) Rules, 2002. In order to register the sale deed, the petitioner Company has approached the 3rd respondent and the 3rd respondent also gave the registration receipt to the petitioner in respect of Document No.8570 of 2015 dated 09.12.2015. Subsequently, on 27.03.2017, the 3rd respondent issued the impugned notice to the petitioner Company demanding additional stamp duty of Rs.61,30,812/- and initiated proceedings under Section 47-A of the Indian Stamp Act, 1899.

5. According to the petitioner, the respondents have no authority to collect surcharge of 2% on registering the sale certificate and that the surcharge is leviable only on the instrument for sale, Exchange, Gift, Mortgage and Lease of immovable property. Further, according to the petitioner, when the sale certificate is not an instrument and when the same is issued by the duly authorised statutory authority evidencing the factum of statutory sale, the 3rd respondent has collected excess of 2% surcharge without any provision of law.

6. The learned counsel appearing for the petitioner submitted that the issue involved in the present writ petition is covered by the following Judgments:-

> "(i) The Inspector General of Registration, Chennai and Others vs. K.K.Thirumurugan reported in CDJ 2015 MHC 764 and
>
> (ii) P.Pandian vs. The Inspector General of Registration, Chennai and Another reported in CDJ 2016 MHC 905".

5. Mr.A.N.Thambidurai, learned Special Government Pleader, appearing for the respondents submitted that the issue is covered by the said Judgments.

6. In view of the submissions made by the learned counsel on either side, since the issue is covered by the Judgments relied upon by the learned counsel for the petitioner, the impugned proceedings dated 27.03.2017 is quashed and the ***respondents 2 & 3** are directed to return the document No.8570 of 2015, within a period of four weeks from the date of receipt of a copy of this order, without insisting for any additional stamp duty along with refund of excess stamp duty/ surcharge of 2% amounting to Rs.11,88,740/- which was paid by the petitioner at the time of registering the document.

With the above observation, the writ petition is allowed. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

***Corrected order to issue as per order of this court dated 16.11.2017**
-s/d-
Assistant Registrar(CSV)
dt: 17/11/2017

//True Copy//

Sub Assistant Registrar

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To

1 The Inspector General of
Registration
No.100 Santhome High Road
Chennai-28

To be Substituted
order already
desptached on
25.04.2017

2 District Revenue Officer (Stamps)
District Collector Office
Coimbatore

3 The sub Registrar
Annur Coimbatore District

+2 cc to M/s./Genicon and Associates Advocate sr 81660
+1 cc to the Govt Pleader sr 24362

W.P.No.9604 of 2017

aa17/11/2017