THE HON'BLE THE ACTING CHIEF JUSTICE RAMESH RANGANATHAN

AND

THE HON'BLE SMT JUSTICE T.RAJANI

WRIT APPEAL NOs.1873 AND 2457 OF 2005

COMMON JUDGMENT: {Per the Hon'ble the Acting Chief Justice Ramesh Ranganathan}

In both these Writ Appeals, one filed by the writ petitioner and the other by the Sub-Registrar, the common order of the learned Single Judge in WP.Nos.16104 and 19900 of 2004 dated 12.07.2005 is under challenge.

The land and buildings, plant and machinery, current assets and vehicles of the company in liquidation were sold in three different lots by the Official Liquidator. The petitioner submitted a consolidated bid of Rs.8,35,00,000/- for all the three lots put together. They then applied for registration of only land and buildings contending that the value thereof was Rs.1,01,05,000/-. Their application for registration was returned on the ground that the value of the documents was assessed to be Rs.8,35,00,000/-, but the petitioner had stated that the land and buildings alone were being transferred for Rs.1,01,05,000/- only; and, therefore, the document should be kept pending for detailed scrutiny.

The other three grounds on which the petitioner's application for registration was rejected were (a) the petitioner was claiming 50% exemption under G.O.Ms.Nos.9 and 103, and had paid 50% of the stamp duty, transfer duty and registration fee on the value of Rs.1,01,05,000/-; (b) the land, in some of the serial numbers, was found to be Government land as per the available records, and a clarification had to be obtained from the Mandal Revenue Officer concerned; and (c) after scrutiny, the document would be referred to higher authorities, under the relevant provisions of the laws in force, if necessary.

The Learned Single Judge held in favour of the Sub-Registrar with regards the chargeable value of the property to be Rs.8.35 crores, after excluding lot No.3. He remanded the matter to the Sub-Registrar for verification regarding the petitioner's claim for 50% exemption. No finding was recorded on ground (b) regarding part of the lot being Government land.

Sri S.Ravi, learned Senior Counsel appearing on behalf of the petitioner, would submit that the petitioner has given up their claim of 50% exemption under GO.Ms.Nos.9 and 103; it was always open to the Sub-Registrar to ascertain which part of the land is Government land, and exclude the same from registration, in which event the petitioner would avail their legal remedies; and the only question which this Court would be required to examine is whether the Sub-Registrar can insist that even plant and machinery should be registered, even if the petitioner does not wish to have them registered, and their request for registration is confined only to the land and buildings sold in the auction.

When we asked the learned Government Pleader as to how the petitioner could be forced to register even the plant and machinery when they only seek registration of the land and buildings, Learned Government Pleader would submit that the value of the land and buildings would be required to be determined by the Sub-Registrar; and the petitioner's claim that its value was only Rs.1,01,05,000/- could not be accepted.

As the petitioner only seeks registration of land and buildings, and would run the risk of the plant and machinery not being registered, the Sub-Registrar cannot force them to pay stamp duty on the value of plant and machinery when they do not seek its registration. The question whether the value of these lands and buildings, on the date of presentation of the document, was Rs.1,01,05,000/- or not is a matter which the Sub-Registrar is required to consider; and it is on the value of the land and buildings, as determined by him, that stamp duty and registration charges would be required to be paid subject, of course, to the petitioner's right to question the order of the Sub-Registrar before the appellant authority under the Act.

As the petitioner has given up their claim for 50% exemption and Sri S.Ravi, learned Senior Counsel, would fairly state that, if a part of the land sought to be registered is found to be Government land it may be excluded from registration subject to the petitioner's right to avail their legal remedies, against any such action, being left open, we consider it appropriate to dispose of both the Writ Appeals directing the Sub-Registrar to consider the petitioner's request for registration of the lands and buildings of the company under liquidation, purchased by them in the auction conducted by the Official Liquidator; determine its value on the date of presentation of the document for registration; collect the stamp duty and registration fees thereupon; and, thereafter, consider registration of the sale deed effecting transfer of the lands and buildings, of the company under liquidation, to the petitioner herein, in accordance with law. The entire exercise shall be completed at the earliest preferably within three months from the date of receipt of a copy of this order.

Both the appeals are disposed of accordingly. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(RAMESH RANGANATHAN, ACJ)

(T.RAJANI, J)

18th July 2017
RRB