IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2021

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THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

W.A.No.1017 of 2012 and M.P.Nos.1 and 2/2012

M/s.Shree Vijayalakshmi Charitable Trust,
A Registered Trust rep. by its Trustee
Mr.A.Senthil Kumar,
No.107-A, Sen Gupta Street,
Ram Nagar, Coimbatore-641 009. ... Appellant

-vs-

The Sub-Registrar,
Mettupalayam,
Coimbatore District.
... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent against the order of the learned Single Judge made in W.P.No.21913 of 2010 dated 28.03.2012.

Prayer in W.P.No.21913 of 2010: Writ of Certiorari to call for the records of the respondent's notice signed and dispatched on 16.08.2010 pertaining to 23.338 acres of vacant lands situated in Jadayapalayam Village, Alagambu, Mettupalayam, Sirumugai Road, Mettupalayam Taluk, Coimbatore District, covered by the Sale Certificate dated 14.05.2010 and issued by the official Liquidator of the High Court, Madras, quash the same.

For Appellant : Mr.K.Ramakrishna Reddy

For Respondent : Mr.T.Arun Kumar,
Government Advocate

JUDGMENT
(Judgment of the Court was pronounced by T.RAJA.J)

This Writ Appeal has been directed against the impugned order dated 28.03.2012 passed in W.P.No.21913 of 2010 by a learned Single Judge of this Court.

2. At the outset, it is relevant to mention that while dismissing the Writ Petition, the learned Single Judge has held that in view of the subsequent decisions of Our High Court reported in 2010 (2) CTC 113 (In Re., The Official Liquidator, High Court Madras) and (2010) (4) CTC 802 (Cenney Hotels Private Limited, through its Managing Director, Salem v.State of Tamil Nadu rep. by the Inspector General of Registration, Chennai and others) and also in the light of the decision rendered by a three Judge Bench of the Hon'ble Apex Court reported in (1969) (1) Supreme Court Cases 497, in Raghunath and others vs. Kedar Nath, the sale certificate issued by the Official Liquidator on behalf of the company-in-Liquidation, in favour of the appellant herein, cannot get exempted from payment of stamp duty at the time of registration.

3. In this regard, learned Government Advocate appearing for the respondent placed before us an unreported Full Bench Decision of our High Court in the case of Dr.R.Thiagarajan vs. The Inspector General of Registration, Santhome, Chennai-4 and two others in W.P.(MD) No.3989/2017 dated 05.08.2019 wherein it has been held that the sale certificate issued by the authorized officer of the bank is liable for stamp duty under Article 18-C r/w. Article 23 of Schedule 1 of the Indian Stamp Act and in the event of under valuation of the property, the Registering Authority is entitled to proceed in accordance with Section 47-A of the Indian Stamps Act.

4. Now coming to the case on hand, since the sale certificate has been issued by the Official Liquidator of our High Court, the appellant is liable to pay the stamp duty. In this regard, it is relevant to extract paragraph 58 of the decision reported in 2010 (2) CTC 113 (In Re., The Official Liquidator, High Court Madras) here under:

> ''58. Similarly, the term ''Civil Officer'' is defined in ''Advanced Law Lexicon by P.Ramanatha Iyer'' as ''any Officer holding appointment under the Government except in the Military or Naval Service, whether the duties are Executive or Judicial or in the highest or the lowest departments''. The term ''Civil Officer'' has to be understood only in the context of ''civilians'' as opposed to persons in Military service. It is doubtful, if an Official Liquidator can be equated to a Civil Officer or a Revenue Officer, so as to make the certificate of sale issued by him come within the purview of Section 17(2) (xii) of the Registration Act, 1908. I do not think that an Official Liquidator can be considered to be a ''Revenue

Officer'' within the meaning of Section 89 (4) since he is not collecting revenue for the Government. Even assuming for the sake of argument that he can be equated, Article 18 under Schedule-I of the Indian Stamp Act makes a certificate of sale issued by a Revenue Officer also liable to stamp duty. The term ''Revenue Officer'' appearing both in Article 18 under Schedule-I of the Indian Stamp Act and also in Sections 17(2)(xii) and 89(4) of the Registration Act, are to be given the same meaning and to be construed to indicate the same person.''

5. In view of the above, since the issue-in-question has already been decided and squarely covered by the decision of the Full Bench of Our High Court cited supra, we are of the considered view that the sale certificate issued by the Official Liquidator on behalf of the company-in-Liquidation, in favour of the appellant herein, cannot get exempted from payment of stamp duty at the time of registration as only a sale or transfer made by the revenue or civil court can be exempted from payment of registration charges. Therefore, we find no merit in the present Writ Appeal.

6. In the result, the Writ Appeal fails and the same is accordingly dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VI)

// True Copy//

Sub Assistant Registrar

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To:
The Sub-Registrar,
Mettupalayam,
Coimbatore District.

+1cc to the Government Pleader, S.R.No.36584

W.A.No.1017/2012

AJS(CO)
SU(18/08/2021)