

**Comp A.No.111 of 2019
in CP No.73 of 2000**

R.SUBRAMANIAN, J.

This application has been filed seeking a direction to the Official Liquidator to recall the letter dated 02.01.2018, sent by the Official Liquidator to the Sub Registrar, Bodi, requiring him to desist from registering any sale deed or any transfer document in respect of the properties which according to the Official Liquidator, may belong to the Company liquidation namely, M/s. Sterling Tree Magnum (India) Limited.

The facts in brief are as follows:

2. The applicants had entered into an agreement of sale for purchasing certain properties situate at Rasingapuram Village, Bodinnayakanur Taluk, Theni District, from the respective owners. Upon payment of the entire sale consideration, the owners had executed sale documents in favour of the applicants on 10.12.2009 and 29.12.2009. The sale deeds were also duly registered in the office of the Sub Registrar, Bodi. When the said transaction was being completed, it was brought to the notice of the applicants that the Company under liquidation had entered into an

agreement of sale for purchasing the subject properties. The parties had agreed between them that the advance paid by the Company under liquidation is to be paid over to the Company under liquidation directly by the purchasers/applicants herein and the Company under liquidation will join the execution as a confirming party. Accordingly, the applicants being the purchasers had paid various sums of monies to the Company under liquidation and the Company under liquidation through its power agent joined execution of the sale deeds as a confirming party.

3. The Company Petition in CP No.73 of 2000 was pending and eventually a winding up order came to be passed on 11.02.2014. Upon passing of the winding up order, the Official Liquidator who took over the management of the Company found that the Company had joined execution of the sales during the pendency of the winding up and hence he had addressed a letter to the concerned Sub Registrar not to register any sale transaction in respect of the Company, so that the assets of the Company can be protected. When the applicants attempted to sell the property, the Sub Registrar cited the letter sent by the Official Liquidator and refused to register the documents, hence these applications.

4. The Official Liquidator has filed a Report setting out the facts leading to his forwarding a letter to the Sub Registrar.

5. The sales in question had happened during the winding up, but before the order of winding up was passed. Under Section 436(2) of the Companies Act, the Company Court has the discretion to validate certain transactions if it is found that the transactions are *bona fide*. Strictly speaking Section 436 may not even apply to the case on hand, inasmuch as there was no transfer of the property of the Company in liquidation, during the process of winding up. The Company in liquidation had only entered into agreements of sale.

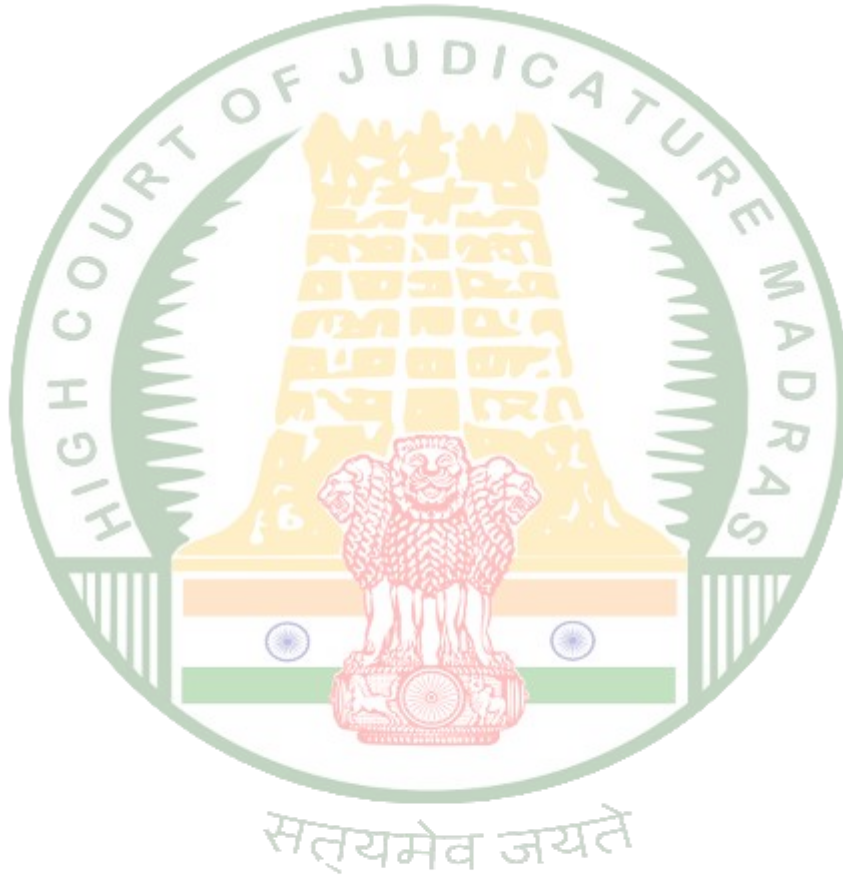
6. Section 54 of the Transfer of Property Act, clearly stipulates that a contract of sale of immovable property does not create an interest in immovable property. It is also seen from the respective sale deeds that the advance paid by the Company in liquidation for purchase of these properties were returned by the applicants who were purchasers of the property by issue of a Demand Draft in the name of the Company in liquidation. The

Company in liquidation had only joined as a confirming party to convey a better title to the purchaser, since the agreements of sale were registered. I therefore do not find any cause to substantiate the action of the Official Liquidator in addressing a letter to the Sub Registrar, requiring him not to register any sale transaction in respect of the properties in question. The owners of the property have every right to validly convey the property to the purchaser and the mere addition of the Company in liquidation as a confirming party, in its capacity is an agreement holder, will not enable the liquidator to treat the property as the property of the Company in liquidation. Hence this application is allowed.

7. The Official Liquidator is required to address a letter to the Sub Registrar, Bodi, withdrawing the letter dated 02.01.2018 and indicating that he has no objection for any transfer of the property that has been purchased by the applicants from the third parties under the Sales Deeds dated 10.12.2009 and 29.12.2009. The letter shall be despatched with in a week from the date of uploading of this order in the web.

08.10.2021

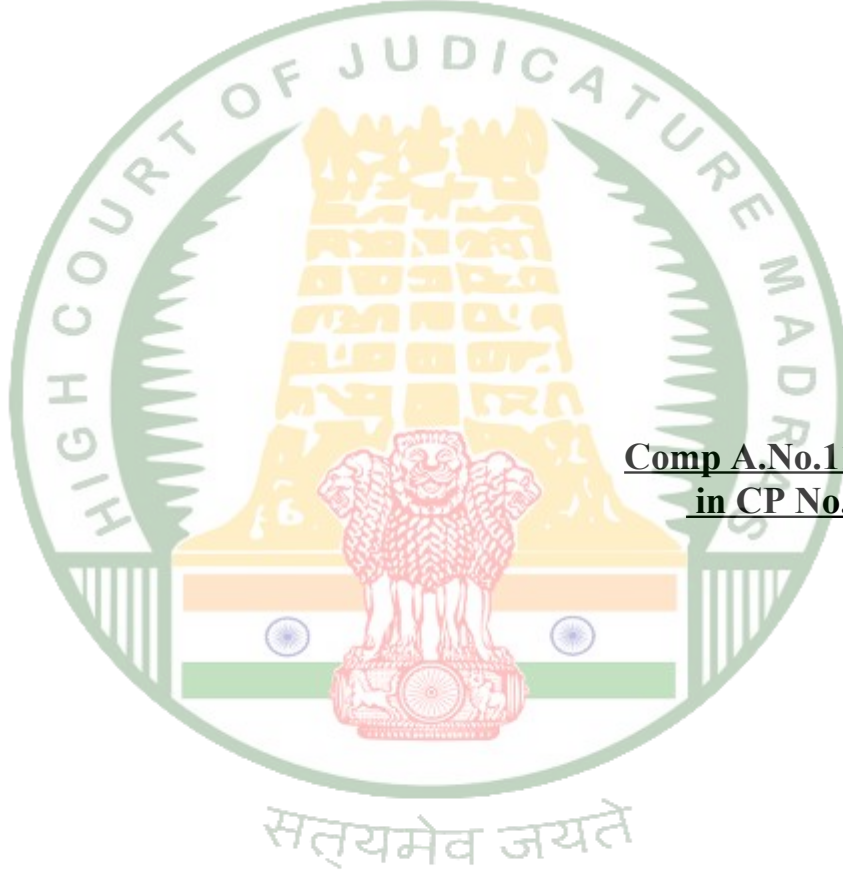
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