IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.11.2021

C O R A M

THE HON'BLE MR. JUSTICE KRISHNAN RAMASAMY

W.P.Nos.22345 and 22346 of 2017
and W.M.P.No.23427 of 2017

M/s.Johnson Lifts Private Ltd.,
Represented by its Power of attorney agent
Mr.Rose Blessed King
No.1, East Main Road,
Anna Nagar West Extension,
Chennai - 600 101. ...Petitioner in both W.Ps

Vs

1.The State of Tamilnadu
Represented by its Secretary
Department of Revenue,
Government of Tamilnadu,
Chief Secretariat, Fort St.George,
Chennai - 600 009.

2.The Inspector General of Registration,
State of Tamilnadu,
No.100, Santhome High Road,
Mylapore, Chennai - 600 028.

3.The Sub-Registrar, Thiruperambadur
SH 57, Ramanujar Nagar,
Thiruperambadur,
Kancheepuram District - 602 105.
... Respondents in both W.Ps

Prayer in W.P.No.22345 of 2017 Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorarified Mandamus, seeking to call for the records pertaining to the impugned order dated 25.05.2017 bearing Na.Ka.No.100/2017, passed by the third respondent and quash the same and consequently direct the first respondent to refund the sum of Rs.1,02,42,000/- (Rupees One Crore Two Lakhs and Forty Two Thousand only) paid, under protest, as surcharge by the petitioner along with interest as fixed by the Court from 21.04.2017 till the date of payment.

Prayer in W.P.No.22346 of 2017 Writ Petition filed under Section 226 of the Constitution of India, prayed for the issuance of Writ of Certiorari, seeking to call for the records pertaining to the impugned order of the second respondent bearing No.25052/E2/2011 dated 14.09.2011, and quash the same.

In both W.Ps

For Petitioner	:	Mr.A.R.Karunakaran
For Respondents	:	Mr.V.Nanmaran Additional Government Pleader

ORDER

W.P.No.22345 of 2017 has been filed, praying for the issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order dated 25.05.2017 bearing Na.Ka.No.100/2017, passed by the third respondent and quash the same and consequently direct the first respondent to refund the sum of Rs.1,02,42,000/- (Rupees One Crore Two Lakhs and Forty Tow thousand only) paid, under protest, as surcharge by the petitioner along with interest as fixed by the Court from 21.04.2017 till the date of payment.

W.P.No.22346 of 2017 has been filed, praying for the issuance of Writ of Certiorari, to call for the records pertaining to the impugned order of the second respondent bearing No.25052/E2/2011 dated 14.09.2011, and quash the same.

2.When the matter is taken up for hearing, the learned Additional Government Pleader appearing for the respondents would submit that the issue involved in this Writ Petition is no more res integra in view of the decision rendered by the Hon'ble Full Bench of this Court in the case of Dr.R.Thiagarajan vs. The Inspector General of Registration reported in 2019 4 CTC 839. Therefore, he prayed this Court to dismiss the Writ Petition.

3.The learned counsel for the petitioner has not raised any objection and acceded the submission made by the learned Additional Government Pleader.

4.Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

5.According to the judgment of the Full Bench, the unstamped Sale Certificate is a void document and no right would vest upon the auction purchaser of the property. It cannot be equated that the certificate issued by Civil or Revenue Officer in an auction sale, does not get any valid right and an unregistered sale certificate and it is categorically held that the sale certificate issued by the Authorized Officer of the Bank is compulsorily registrable on payment of duty. Paragraphs 22, 23 and 26 of the Full Bench judgment of this Court, referred to above, are extracted hereunder:

> "22. The Sale Certificate issued by the Authorised Officer of the bank cannot be agnated with the Sale Certificate issued by a Civil or Revenue Court. The nomenclature given to the document issued by the Authorized Officer would be irrelevant for exemption from payment of stamp duty and the same will not be covered under Article 18-C Schedule 1 of the Stamp Act. Therefore, the Sale Certificate issued by one who is neither Civil or Revenue Officer would not fall under Section 17(2)(xii) of the Registration Act and the Sale Certificate issued by the Authorized Officer is liable for stamp duty on the market value as per Article 18-C read with Article 23 of Schedule 1 of the Stamp Act.
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> 23. If proper stamp duty is not paid for the said Sale Certificate and registered as required under law, then it is only a still born child and does not confer any right to the petitioner whatsoever. When the Sale Certificate is not properly stamped and registered, it is a void document and no right would vest upon the petitioner based on the same. As per Section 47-A of the Stamp Act, if the Registering Authority has reason to believe that the market value of the property, which is the subject matter of conveyance, has not been truly set-forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of the said property and the proper duty payable thereon.
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> 24........

25.........

26. To summarize, our answer to the question referred to the Full Bench is as follows:-

We are of the considered view that the Sale Certificate issued by the Authorized Officer of the bank is liable for stamp duty under Article 18-C read with Article 23 of Schedule 1 of the Indian Stamp Act. In the event of under-valuation of the property, which is the subject matter of the Sale Certificate, the Registering Officer is entitled to proceed in accordance with Section 47-A of the Indian Stamp Act. Hence, we agree with the proposition laid down by the Division Bench of this Court in the unreported judgment of this Court dated 21.08.2017 made in W.A.(MD) No.3 of 2017 [cited supra]"

6.In view of the law laid down by the Hon'ble Full Bench of this Court in Dr.R.Thiagarajan case cited supra, the petitioner is not entitled for the relief sought for in the present Writ Petition. Hence, the Writ Petition is dismissed on the same line as the order passed by the Hon'ble Full Bench of this Court referred above. No Costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To:

1. The Secretary
   The State of Tamilnadu
   Department of Revenue,
   Government of Tamilnadu,
   Chief Secretariat, Fort St.George,
   Chennai - 600 009.

2.The Inspector General of Registration,
State of Tamilnadu,
No.100, Santhome High Road,
Mylapore, Chennai - 600 028.

3.The Sub-Registrar, Thiruperambadur
SH 57, Ramanujar Nagar,
Thiruperambadur,
Kancheepuram District - 602 105.

W.P.Nos.22345 and 22346 of 2017

GPL(CO)
GMY(06/12/2021)