IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2022

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THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

WP.NO.11346 OF 2011
AND
MP.NO.1 OF 2011

M/s.S and S Foundations Pvt Ltd.,
By its Managing Director,
S.Sathyanarayanan,
No.45, Giriappa Road,
T.Nagar, Chennai 600 017

...Petitioner

Vs

1. The District Revenue Officer,
(Stamps),
No.32, Rajaji Salai,
Chennai 600 003.

2. The Sub Registrar,
Purasawalkkam,
Chennai 600 007.

...Respondents

Prayer :-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings No.Tha.Ka.No.1243/A2/2011 dated 05.04.2011 and quash the same and direct him to accept the document No.2557 of 2008 as properly valued on the file of the second respondent.

For Petitioner : Mr.R.Parthasarathy,
Senior Counsel
for Mr.J.Ramakrishnan

For Respondents : Mr.Yogesh Kannadasan,
Special Government Pleader

ORDER

This writ petition has been filed to issue a Writ of Certiorarified Mandamus calling for the records of the first respondent in his proceedings No.Tha.Ka.No.1243/A2/2011 dated 05.04.2011 and quash the same and direct him to accept the document No.2557 of 2008 as property valued on the file of the second respondent.

2. Heard, Mr.R.Parthasarathy, Senior Counsel appearing for the petitioner and Mr.Yogesh Kannadasan, Special Government Pleader appearing for the respondents.

3. The petitioner purchased vacant land to an extent of 18.5 grounds comprised in T.No.1859/1part O.S.No.2020 C.C.No.893 Block No.29 bearing old door No.4/5, new door No.52, Perambur Barracks Road, Vepery, Chennai by the registered sale deed dated 07.07.2008 from Anandha Swami Sadhu Maha Sangam Trust registered vide document No.2557 of 2008. This Court framed scheme on 10.12.1954 in CS.No.136 of 1951. The sole trustee of the Trust called Sri Adi Moolasamy @ Vidyananthagiri Swamigal filed petition in OP.No.453 of 2006 on the file of this Court under Section 34 of Indian Trust Act praying permission to sell the above said land. This Court granted permission to the Trust to sell the same and appointed a retired Judge of this Court for monitoring the entire sale of the Trust property including the power of execution of sale deed. The Hon'ble Administrator after due publication, had chosen the petitioner Company as highest bidder to purchase the subject property and confirmed the bid of the petitioner at Rs.10,30,00,000/-. Thereafter, the sale deed was executed on 07.07.2008 registered vide document No.2557 of 2008 on the file of the second respondent. The sale deed was executed for a sum of Rs.11,01,94,833/- including the interest due for the delayed payment though the value of the property fixed at Rs.10,30,00,000/-. While being so, the second respondent issued notice dated 22.09.2009 demanding a sum of Rs.18,40,408/- value representing deficit stamp duty and Rs.2,30,080/- towards registration charges as if the property is undervalued. Though the petitioner replied that there was no undervaluation since the property has been sold out through public auction, that too, by this Court. Thereafter, the first respondent issued notice under Rule 4 of Tamilnadu Stamps (Prevention of Undervaluation of Instrument) Rules, 1968 and fixed the market value as per guidelines at Rs.13,32,00,000/- and demanded stamp duty at Rs.18,40,400/-.

4. Mr.R.Parthasarathy, Senior Counsel appearing for the petitioner contended that Section 47 of Indian Stamp Act can be invoked only when there is undervalue of the property, which is

not the case here, as the property has been purchased in public auction pursuant to the order of this Court. The sale has been conducted by the Hon'ble Administrator appointed by this Court. The sale being pursuant to the order of this Court, the first respondent has got no jurisdiction to take proceedings under Section 47(A) of Indian Stamp Act. In support of his contention, he relied upon the judgment in the case of Devi Narayanann Housing Development Pvt. Limited, rep. by its Managing Director Vs. The Inspector General of Registration reported in 2007 (5) CTC 60, wherein this Court held as follows:

> 13 Admittedly, the property for registration was purchased by the petitioner in a public auction conducted in the open court and the petitioner company was declared as the highest bidder and the offer made by the petitioner was Rs.13.55 crores for the property including land, buildings and superstructure and the offer was accepted and the petitioner too purchased the same and remitted the sale consideration of Rs.13.55 crores in two instalments. Since the amount fixed by the court is to be taken as the real value of the property, the petitioner presented the document for registration indicating the value of the document as Rs.13.55 crores. However, in the impugned order, the respondent has fixed the guideline value as Rs.15,24,60,000/- contrary to the settled principle that the property purchased in court auction is the value determined by the court and no authority can fix any other value taking note of the surrounding circumstances. In the instant case, the value indicated by the petitioner is the value fixed by the court and therefore, the same has to be taken into account and accordingly, the petitioner has to pay the stamp duty only on the basis of the value fixed by the court in the court auction.

5. It is settled position that the value fixed by the Court has to be taken by the respondents. Whereas, the impugned order issued by the first respondent is made contrary to the above proposition and it cannot be sustained. Further the Hon'ble Division Bench of this Court also held in the case of The Inspector General of Registration, Chennai and others Vs. K.P.Kadar Hussain & others reported in 2014-3-L.W.865 as follows:

> 46.On a careful consideration of respective contentions and this Court, on looking into the entire gamut of the facts and circumstances of the present cases, in an encircling fashion, comes to a resultant

conclusion that Section 47-A of the Indian Stamp Act, 1899 has no application whatsoever, in so far as the Respondents are concerned, because of the prime reason that there is no room for entertaining a simmering doubt that there was any under valuation in regard to the Sale Deeds executed by the Official Liquidator. In this regard, one cannot ignore a vital fact that the Respondents were the successful bidders and in their favour, the Official Liquidator had executed the Sale Deeds in question. When the Respondents had purchased the properties in question, in Company Court Auction, the Sale Deeds executed, in their favour, by the Official Liquidator, then, the same cannot be impeached by the Appellants, on any count much less by way of initiation of proceedings under Section 47-A of the Indian Stamp Act, 1899 on the ground that the Sale Deeds were under valued. Consequently, the views taken by the Learned Single Judges, in allowing the Writ Petitions, filed by the Respondents, do no suffer from any material irregularity or patent illegality in the eye of law. Resultantly, the Writ Appeals fail.

6. Therefore, Section 47-A of the Indian Stamp Act, 1899 has no application whatsoever, insofar the petitioner is concerned for the reason that there is no room for entertaining a simmering doubt that there was any undervaluation with regard to the sale deed executed by the Hon'ble Administrator of this Court. Admittedly, the petitioner is the successful bidder and in favour of the petitioner, the Hon'ble Administrator had executed sale deed in question.

7. In view of the above, the impugned show cause notice dated 05.04.2011 cannot be sustained and it is liable to be set aside. Accordingly, the impugned show cause notice dated 05.04.2011 is set aside and the writ petition is allowed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue Officer,
   (Stamps),
   No.32, Rajaji Salai,
   Chennai 600 003.

2. The Sub Registrar,
   Purasawalkkam,
   Chennai 600 007.

+1cc to Mr.J.Ramakrishnan, Advocate, S.R.No.1837

+1cc to the Government Pleader, High Court, Chennai, S.R.No.2252

WP.No.11346 of 2011

SJ(CO)
RLP(31/01/2022)