IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.06.2022

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P. No.14824 of 2022
and
W.M.P.No.14022 & 14023 of 2022

S.Jannath Bebe ... Petitioner

Vs.

1. The Deputy Inspector General of Registration,
   Coimbatore Zone,
   102, State Bank Road,
   District Collector Office Campus,
   Coimbatore-18.

2. The District Registrar (Administration),
   Coimbatore,
   Coimbatore District.

3. The Sub Registrar,
   Anamalai Sub Registrar Office,
   Anamalai, Coimbatore District.

4. The Authorised Officer,
   Tamilnadu Mercantile Bank Ltd.,
   Pollachi Branch,
   No.76 & 77, New Scheme Road,
   Pollachi 642 001. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records of the first respondent vide proceedings in Mu.Mu.No.179/E3/2022 dated 10.02.2022 and quash the same in so far as directing to get valuation of the machineries is concerned and direct the respondents herein to collect the difference in stamp duty and registration charges of a sum of Rs.61,060/- and return the Sale Certificate registered as Doc.No.3910/2021 on the file of the third respondent to the petitioner after completing the registration.

For Petitioner	:	Mr.G.Arul Murugan
For R1 to R3	:	Mr.Yogesh Kannadasan Special Government Pleader
For R4	:	Mr.V.Chandrasekaran

ORDER

This Writ Petition has been filed seeking for the issuance of a Writ of Mandamus to call for the records of the first respondent vide proceedings in Mu.Mu.No.179/E3/2022 dated 10.02.2022 and quash the same in so far as directing to get valuation of the machineries is concerned and direct the respondents herein to collect the difference in stamp duty and registration charges of a sum of Rs.61,060/- and return the Sale Certificate registered as Doc.No.3910/2021 on the file of the third respondent to the petitioner after completing the registration.

2. The case of the petitioner is that originally one K.Senthamarikannan and S.Aravinth Karthick were the owners of the property measuring an extent of 1.25 Acres along with factory building and house building

constructed thereon comprised in Old S.F.No.18/A1A, New S.F.No.18/4, Patta No.111 of Thensangampalayam Village, Pollachi Taluk, Coimbatore District. The said K.Senthamarikannan had availed loan from the 4th respondent Bank by executing Mortgage of Deposit of Title Deeds dated 26.07.2018, registered as Doc.No.3709 of 2018, on the file of the Sub Registrar, Anamalai in favour of the Tamilnadu Mercantile Bank. However, the original land owners have not re-paid the loan amount, thereby the fourth respondent/Bank initiated proceedings under the Securitization and Reconstruction of Financial assets and Enforcement of Security Interest Act, 2002, (hereinafter referred as "Act") and issued Auction Sale Notice, dated 16.04.2021 for the aforesaid property. The petitioner has participated in the auction proceedings and was declared as the successful bidder for a sum of Rs.95,60,000/- and the sale confirmation letter was issued by the 4th respondent/Bank in favour of the petitioner on 04.06.2021. Pursuant to that, the fourth respondent/Bank issued the Sale Certificate in favour of the petitioner on 26.07.2021 and the same was presented before the third respondent for registration. It is pertinent to note that, the petitioner has paid a sum of Rs.10,51,950/- towards necessary stamp duty and registration charges as per the rules in force for the land and the building. Thereafter, the third respondent instead of registering the Sale Certificate, the original sale deed was returned to the petitioner vide Doc.No.3910/2021. However, the third respondent, who was not satisfied with the valuation produced by the petitioner, referred the matter to the second respondent under Section 47-A of the Indian Stamp Act. Thereafter, the second respondent conducted adjudication and passed orders on 03.01.2022, by fixing Rs.155/- per square feet. Further, the second respondent obtained valuation certificate from the Public Works Department Officials and fixed the building value. Aggrieved by the action, the preferred appeal before the first respondent. The first respondent disposed the petitioner's appeal and confirmed the order passed by the second respondent, and disposed the appeal by issuing direction to the second respondent/District Registrar to asses the land and buildings including the machineries. Challenging the order of the first respondent, the petitioner has filed the present Writ Petition.

3. The learned counsel for the petitioner submitted that the petitioner has no grievance in respect of issuing direction to assess the land and buildings. However, the first respondent without considering the sale deed, issued direction to the second respondent to assess the value of the machinery is not sustainable, since the machinery was not conveyed in favour of the petitioner, and therefore, issuing direction to the second

respondent to assess the value of the machineries for the purpose of collecting Stamp Duty does not arise. Further, he submitted that the petitioner is ready to pay the value of the land and building as ordered by the first respondent within a reasonable time as may be fixed by this Court. Accordingly, he prays for appropriate orders.

4. The learned counsel appearing for the fourth respondent would submits that the machinery was not conveyed to the petitioner, the land and buildings alone were conveyed to the petitioner.

5. The learned Special Government Pleader appearing for the respondents 1 to 3 submitted that the machinery is not conveyed by the fourth respondent in favour of the petitioner. Therefore, this Court may pass appropriate orders.

6. Heard the learned counsels on both sides and perused the materials available on record.

7. The facts in the present case are not in dispute, as also referring the matter to the second respondent under Section 47-A proceedings are not in

dispute. The petitioner fairly admitted that he is ready to pay the Stamp Duty towards land value and the building value as assessed by the first respondent. However, his grievance is only in respect of the direction to the first respondent to assess the machinery, for computing the Stamp Duty, as the machinery was not conveyed in favour of the petitioner. When the fourth respondent has not conveyed the machinery in favour of the petitioner, the direction for fixing the value of the machinery for computing Stamp Duty is not sustainable as it is the admitted case of the fourth respondent as concerned by the other respondents that machinery was not conveyed to the petitioner. In such view of the matter, this Court is inclined to issue direction to the second respondent to verify the sale deed, and if the machinery is not conveyed to the petitioner as submitted by the fourth respondent, the second respondent shall not collect the Stamp Duty towards the value of the machinery.

8. With the above observations and directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

15.06.2022

Index : Yes / No
Speaking order : Yes / No
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M.DHANDAPANI, J.

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