IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.7194 of 2023

M/s. Vijayalakshmi Marketing,
Partnership firm Rep. by Managing partner,
N.Rajan Babu,
Having office at No. 90,
V.K. Road, Peelamedu,
Coimbatore 641 004. ... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Commercial Taxes and Registration Department,
Fort St.George, Chennai 5

2. The Inspector General of Registration,
No. 100 Santhome High Road, Chennai-4.

3. The Sub registrar,
Thuraiyur Sub Registration Office,
Thuraiyur, Trichy District. ... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorarified Mandamus, calling for the records of 3rd respondent pertaining to the impugned Refusal check slip in Refusal Number RFL/ Thuraiyur / 4/ 2023 dated 4.01.2023 and quash the same as arbitrary, illegal and without jurisdiction and consequently direct the respondents herein to refund the excess amount of Rs.1,35,33,970/- paid by the petitioner firm for registration of sale certificate under protest as stamp duty and registration charges as claimed by the 3rd respondent and direct the respondents not to proceed with under Sec. 47 (A) of Indian Stamp Act to fix any other value or seek valuation of the E-auctioned property under Court proceedings and in furtherance direct the 3rd respondent to release the registered sale deed vide Doc. No. 47 of 2023 dated 4.01.2023.

For Petitioner : Mr.P.Dinesh Kumar

For Respondents : Mr.R.Raman Laal
Additional Advocate General

ORDER

The writ on hand has been instituted questioning the validity of the Refusal Check Slip issued in proceeding dated 04.01.2023 and to direct the respondents to refund the excess amount of Rs.1,35,33,970/-paid by the petitioner firm for registration of sale certificate under protest as stamp duty and registration charges as claimed by the 3rd respondent and direct the respondents not to proceed with under Sec. 47 (A) of Indian Stamp Act to fix any other value or seek valuation of the E-auctioned property under

Court proceedings and in furtherance direct the 3rd respondent to release the registered sale deed vide Doc. No. 47 of 2023 dated 4.01.2023.

2. It is not in dispute that the petitioner is an auction purchaser, purchased the property through public auction. The petitioner presented the sale certificate issued by the Official Liquidator for registration. The Registering Authority refused to register the same and asked the petitioner to pay the Stamp Duty as applicable. The petitioner admittedly presented the Sale Certificate for registration under Section 17 of the Registration Act and it was not communicated by the Official Liquidator under Section 89(4) of the Act. Therefore, the petitioner is liable to pay the Stamp Duty as applicable for registering the document under Section 17 of the Registration Act.

3. The learned counsel for the petitioner made a submission that the petitioner had paid the Stamp Duty as demanded by the Registering Authority / Sub Registrar. It is contended that the petitioner has paid the Stamp Duty under protest. However, the letter enclosed in the typed set of papers, along with the writ petition does not contend any acknowledgement for the said letter by the Registering Authority. In the

absence of the acknowledgement of such protest letters having civil consequences, cannot be considered since the petitioner seeks refund of the Stamp Duty already paid.

4. The Registering Authority referred the matter under Section 47 A of the Indian Stamp Act for determining the Stamp duty payable for the document presented by the petitioner for registration. The petitioner is questioning the authority of the Deputy Collector Stamps, under Section 47A of the Act.

5. The judgement of the Division Bench, which is referred, may not have any direct application with reference to the facts of the present case since the petitioner had presented the sale certificate issued by the Official Liquidator under Section 17 of the Registration Act for registration. He paid the Stamp Duty, undergone the procedures contemplated under the Registration Act and thereafter, the document was referred by the authorities under Section 47A of the Act.

6. That being the factum established, the petitioner has to raise all his defences before the authority under Section 47A of the Act. Even the

ground of jurisdiction may be raised by the petitioner before the authority to defend his case. However, the question of refund would not arise at this stage since the document has already been referred under Section 47A of the Act and inquiry is pending. Thus, the petitioner is at liberty to participate in the proceedings initiated under Section 47A of the Indian Stamp Act and submit his defence statements and documents, if any, enabling the authorities to take a final decision and pass appropriate orders.

7. Accordingly, the writ petition stands **disposed of .** No costs.

13.09.2023

Index : Yes
Speaking Order
Neutral Citation : Yes
(sha)

S.M.SUBRAMANIAM. J.,

(sha)

To

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