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WP 7643 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12-07-2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.7643 of 2023

And

WMP No.7802 f 2023

C.Raju

... Petitioner

Vs.

1.The Sub Registrar,
Udumalpet,
Tiruppur District.

2.The Official Liquidator,
High Court,
Madras.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus, calling for the records relating to the first respondent Refusal Check Slip dated 25.02.2023 in TP/144350324/2023 and quash the same and consequently direct the first respondent to file the Sale Certificate dated 10.11.2022 forwarded by the second respondent Official Liquidator inF.No.443/2001/AR-II/24Projects/Jallipatti dated 10.01.2023.



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For Petitioner : Mr.K.Sakthivel

For Respondent-1 : Mr.R.Ramanlaal,
Additional Advocate General
Assisted by Mr.D.Ravichander,
Special Government Pleader.

For Respondent-2 : The Official Liquidator,
High Court, Madras.

ORDER

The relief sought for in the present writ petition is to direct the first respondent to file the copy of Sale Certificate No.19/2012 (DRT No.260/2001) dated 01.08.2012, issued by the second respondent in favour of the petitioner, in Book No.1, maintained in the office of the second respondent by making necessary entries therein as per communication dated 01.08.2012 issued by the second respondent to the first respondent.

2. The grievance of the petitioner is that an application in C.A.No.252 of 2022 in CP No.57 of 1998 was filed before the second respondent-Official Liquidator, High Court, Madras and it was ordered. The Sale Certificate was issued on 10.11.2022 relating to the subject property to an extent of 12.40 acres of land situated at Venkitapuram Village, Udumalpet



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Taluk, Tiruppur District.

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3. The petitioner states that the Sale Certificate is not registered by the Sub Registrar, despite the fact that decree was passed by the Competent Forum. Thus, the petitioner is constrained to move the present writ petition.

4. Under Section 17(2)(xii) of the Registration Act, the Registration of Sale Certificate is an option and it is not compulsory. In such circumstances, the Sale Certificate cannot be equated with the other documents, which is to be registered compulsorily.

5. In this regard, the legal principles are settled in the case of **Cenney Hotels Pvt Ltd., through its Managing Director S.Venkatesh vs. State of Tamil Nadu represented by Inspector General of Registration, Santhome, Chennai-600 004 and others [2010 (4) CTC 802]**, wherein this Court, in paragraph-14, observed as under:-

“14. A reading of the above judgment would reveal that the purchaser of a property by sale through Civil or Revenue Court has no disadvantage because of lack of registration in view of the fact that under Section 17(2)(xii) of the Registration Act,



Certificate of Sale is not a compulsory registrable document and consequently, the transfer of title in his favour will not be vitiated by non-registration. But so far as the certificate issued by the Authorised Officer is concerned, it cannot be equated with the certificate issued by the Revenue or Civil Court. As contended by the learned Counsel for the Petitioner, the nomenclature given to the document issued by the Authorised Officer may not be relevant for giving exemption from paying the stamp duty since the Sale Certificate issued by the Authorised Officer will not be covered by Article 18 of Schedule I of the Stamp Act. In my considered opinion, the judgment delivered by this Court in In Re, The Official Liquidator, High Court, Madras, 2010 (2) CTC 113 by considering the earlier judgments, has set forth the correct position of law. In view of the above, I do not find any infirmity in the order passed by the 1st Respondent.

In fine, the Writ Petition fails and the same is dismissed. Consequently, connected M.P. is closed.”

6. Section 89(4) of the Registration Act also would not apply in view of the fact that the Official Liquidator, High Court, Madras cannot be considered as a Competent Authority/Revenue Officer for the purpose of forwarding the Sale Certificate for registration by the Sub Registrar concerned.



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Thus, the sale by the Official Liquidator, High Court, Madras is unconnected with the Sale Certificate, which is to be forwarded by the Revenue Authority to the Sub Registrar.

7. Section 23 of the Indian Stamp Act, deals with conveyance and the said provision would be applicable in respect of the facts and circumstances of the case. This apart, the Chief Controlling Revenue Authority and Inspector General of Registration issued a Circular in Letter No.52070/C2/2011 dated 27.10.2011, categorically explaining these situations and more specifically, in respect of the Sale Certificate issued by the Official Liquidator, High Court, Madras.

8. Therefore, the Sale Certificate issued by the Official Liquidator, High Court, Madras, is not considered as a document, which is to be registered by the Sub Registrar and it is only an optional registration and hence, a separate stamp duty and registration fee are to be paid by the person, who seeks for registration under the provisions of the Registration Act.

9. This being the position, the petitioner, if at all, ready and willing to go for registration, he has to comply with the provisions of the Registration



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Act as well as the Circular issued by the Chief Controlling Revenue Authority and Inspector General of Registration on 27.10.2011. In other words, the petitioner has to pay the stamp duty and the registration charges, as applicable, for registration.

10. With the abovesaid clarifications, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

12-7-2023

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No
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- To
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S.M.SUBRAMANIAM., J

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