



W.P.No.26012 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	05.04.2023
Pronounced on	19.04.2023

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P.No.26012 of 2022
and
W.M.P.No.25099 of 2022

Wipro Limited,
Doddakannelli, Sarjapur Road,
Bengaluru-560 035
rep. by its Senior Manager,
Facilities Management Group &
Authorised Signatory
Sri M.S. Shrinath

... Petitioner

Vs.

- 1.The Inspector General of Registration,
100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
Raja Annamalaipuram,
Chennai-600 028.
- 2.The Sub-Registrar-Adyar,
Kamaraj Avenue, II Street,
Venkata Rathnam Nagar, Extension,
Adyar, Chennai-600 020.



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3. Sterling Holiday Resorts (India) Ltd.,
IV Floor Purva Primus,
236, Okkiyampettai,
Rajiv Gandhi Salai,
Chennai-600 097
rep. by its Directors.

4. The Official Liquidator,
High Court, Madras,
As the Liquidator of
Sterling Tree Magnum (India) Ltd.,
UTI Building, II Floor, Rajaji Salai,
Chennai-600 001.

(R4-impleaded vide order dated 28.11.2022
made in WMP.31098 of 2022 in
W.P.26012 of 2022 by MDIJ)

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, directing the first and second respondents to delete the following Note "Hon'ble High Court of Madras has appointed Official Liquidator attached to Hon'ble High Court as Provisional Liquidator of M/s. Sterling Tree Magnum (India) Limited. Hence Transfer of this Property is Prohibited Pending CP.No.73 of 2000" in Book 1 in the office of the second respondent in respect of the immovable property bearing T.S. No.6, Block No.7 of Adyar Village, Saidapet Taluk bearing Door No.105, Mount Road, Guindy, Chennai-600 032, with land measuring 24 grounds and 288 square feet (or about 5379 square metres) along with a building thereon measuring about 1,64,378 sq. feet of built-up area and a basement measuring about 31,700 square feet.



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For Petitioner : Mr.P.S.Raman, Senior Counsel
for M/s.Gupta & Ravi

For Respondent : Mr.Yogesh Kannadasan,
Nos.1 & 2 Special Government Pleader

For Respondent-3 : Mr.P.V. Balasubramanian
for M/s.Shivakumar & Suresh

For Respondent-4 : Mr.B.Dhanaraj

O R D E R

The Commercial property bearing Door No.105, Mount Road, Guindy, Chennai-600 034 originally belonged to one Mr.Farrokh J. Irani and Mac Property Development Limited. The third respondent herein had purchased this subject property from them through a registered Sale Deed dated 16.02.1995. Prior to selling of the subject property to the petitioner, the third respondent had entered into a sale agreement with M/s. Sterling Tree Magnum (India) Ltd., on 25.03.1996 for selling 50% of the subject property to them. However, the sale agreement did not materialise and conclude into a sale deed. In this background, the petitioner had purchased the subject property through a Sale Deed dated 03.01.2007, in which M/s. Sterling Tree Magnum (India) Limited joined as a Confirming Party. The recitals of the petitioner's Sale Deed states that the Sale Agreement dated 25.03.1996 with M/s. Sterling



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Tree Magnum (India) Limited was rescinded and that M/s. Sterling Tree Magnum (India) Limited has no interest in the subject property.

1.2. By an order dated 11.12.2014 passed by this Court in C.P.No.73 of 2000, M/s. Sterling Tree Magnum (India) Limited was wound up. Through a circular dated 26.05.2016, the first respondent had informed all the Deputy Inspector Generals, District Registrars and Sub Registrars about the order dated 11.12.2014 passed in C.P.No.73 of 2000 and directed them not to register any sale deed in respect of M/s. Sterling Tree Magnum (India) Limited. Consequently, an encumbrance was created over the subject property belonging to the petitioner about the appointment of Official Liquidator as a Provisional Liquidator of M/s. Sterling Tree Magnum (India) Limited, prohibiting transfer of their properties, pending C.P.No.73 of 2000. The petitioner now seeks for deletion of this encumbrance.

2. Heard Mr.P.S. Raman, learned Senior counsel for the petitioner and Mr.Yogesh Kannadasan, learned Special Government Pleader appearing on behalf of the respondents 1 & 2, as well as Mr.P.V. Balasubramanian and Mr.B.Dhanaraj, learned counsel for the third and fourth respondent respectively.



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3. At the outset, it requires to be mentioned that the second respondent herein had totally misconceived the circular of the first respondent dated 26.05.2016. As per the said circular, the Sub Registrars were instructed to refrain from entertaining registration of documents which purport to alienate / transfer the immovable properties of the "M/s. Sterling Tree Magnum (India) Limited" to third parties, without the consent of the Hon'ble Madras High Court. Apparently, the circular would be binding only on such properties belonging to M/s. Sterling Tree Magnum (India) Limited. Apart from entering into a sale agreement with the third respondent herein, M/s. Sterling Tree Magnum (India) Limited had absolutely no nexus or right over the subject properties. It is a well established principles of law that an agreement to sell will not confer any title nor transfer any interest in the immovable property.

4. Section 54 of the Transfer of Property Act, provides that the title in an immovable property, valued at more than Rs.100/-, can be conveyed only by executing a registered Deed of Conveyance and that a *Contract for Sale* of an immovable property will not by itself create any interest or charge on such property.



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5. Section 54 of the Transfer of Property Act reads as follows:-

"Sale" defined:- "Sale" is a transfer of ownership in exchange for a price paid or promised or part-paid and part-promised.

Sale how made- Such transfer, in the case of tangible immoveable property of the value of one hundred rupees and upwards, or in the case of a reversion or other intangible thing, can be made only by a registered instrument.

In the case of tangible immoveable property of a value less than one hundred rupees, such transfer may be made either by a registered instrument or by delivery of the property.

Delivery of tangible immoveable property takes place when the seller places the buyer, or such person as he directs, in possession of the property.

Contract for sale.-A contract for the sale of immovable property is a contract that a sale of such property shall take place on terms settled between the parties.

It does not, of itself, create any interest in or charge on such property."



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6. The Hon'ble Apex Court in a decision in ***Suraj Lamp and Industries Private Ltd., through Director V. State of Haryana and another*** reported in **2012 (1) SCC 656** had dealt with the scope of an agreement of sale and while relying upon another decision in ***Narandas Karsondas Vs. S.A. Kamtam & Another*** reported in **1977 (3) SCC 247** had held, that an agreement to sell will not qualify to the requirements of Sections 54 & 55 of the Transfer of Property Act and as such, it will not confer any title nor transfer any interest in the immovable property. The relevant portion of the order reads as follows:

"16. Section 54 of TP Act makes it clear that a contract of sale, that is, an agreement of sale does not, of itself, create any interest in or charge on such property. This Court in [Narandas Karsondas v. S.A. Kamtam and Anr.](#) (1977) 3 SCC 247, observed:

32.A contract of sale does not of itself create any interest in, or charge on, the property. This is expressly declared in [Section 54](#) of the Transfer of Property Act. (See [Rambaran Prosad v. Ram Mohit Hazra](#)) [1967]1 SCR 293. The fiduciary character of the personal obligation created by a contract for sale is recognised in [Section 3](#) of the Specific Relief Act, 1963, and in [Section 91](#) of the



Trusts Act. The personal obligation created by a contract of sale is described in [Section 40](#) of the Transfer of Property Act as an obligation arising out of contract and annexed to the ownership of property, but not amounting to an interest or easement therein."

33. In India, the word 'transfer' is defined with reference to the word 'convey'. The word 'conveys' in [section 5](#) of Transfer of Property Act is used in the wider sense of conveying ownership.

...

37. ...that only on execution of conveyance ownership passes from one party to another...."

19. Any contract of sale (agreement to sell) which is not a registered deed of conveyance (deed of sale) would fall short of the requirements of [sections 54](#) and [55](#) of TP Act and will not confer any title nor transfer any interest in an immovable property (except to the limited right granted under [section 53A](#) of TP Act). According to [TP Act](#), an agreement of sale, whether with possession or without possession, is not a conveyance. [Section 54](#) of TP Act enacts that sale of immovable property can



be made only by a registered instrument and an agreement of sale does not create any interest or charge on its subject matter."

7. In the light of the above findings, the sale agreement, entered with M/s. Sterling Tree Magnum (India) Limited, which was already rescinded and confirmed by them in the subsequent sale deed dated 03.01.2007 executed in favour of the petitioner herein, the subject properties cannot, by any stretch of imagination, be termed as the properties belonging to M/s. Sterling Tree Magnum (India) Limited.

8. Above all, the petitioner had purchased the subject properties on 03.01.2007 even prior to winding up of M/s. Sterling Tree Magnum (India) Limited, at which point of time, there was no hindrance or other impediments for the registration of the petitioner's sale deed. Thus, this Court is of the view that the encumbrance created over the subject property is not legally sustainable.

9. Accordingly, a Writ of Mandamus is hereby issued, directing the respondents 1 and 2 to delete the remarks "*Hon'ble High Court of Madras has appointed Official Liquidator attached to Hon'ble High Court as Provisional Liquidator of M/s. Sterling Tree Magnum (India) Limited.*"



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Hence Transfer of this Property is Prohibited Pending CP.No.73 of 2000"

in Book 1 in the office of the second respondent in respect of the immovable property bearing T.S. No.6, Block No.7 of Adyar Village, Saidapet Taluk bearing Door No.105, Mount Road, Guindy, Chennai-600 032 forthwith, in any event, within a period of one week from the date of receipt of a copy of this order. The Writ Petition stands allowed. Consequently, connected Miscellaneous Petition is closed. There shall be no order as to costs.

19.04.2023

Index : Yes
Order : Speaking
Neutral Citation : Yes

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To

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100, Santhome High Road,
Mullima Nagar, Mandavelipakkam,
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Chennai-600 028.
- 2.The Sub-Registrar-Adyar,
Kamaraj Avenue, II Street,
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- 3.The Official Liquidator,
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M.S.RAMESH,J.

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ORDER MADE IN

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and

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