



W.P.No.28869 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2023

CORAM

THE HON'BLE MR. JUSTICE P.VELMURUGAN

W.P.No.28869 of 2023

S.C.Parameswari

...

Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai – 600 028.

2.The Sub Registrar,
Thiruporur SRO
Thiruporur- 603 110
Chengalpet District.

3.The Authorised Officer,
Indian Bank,
Saidapet Branch,
Bali Towers,
No.1, Abdul Razack Street,
Saidapet, Chennai – 15.

...

Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the respondents 1 & 2 to enter the sale Certificate dated 14.08.2023 in Book



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No.1 u/s.89(4) of the Registration Act, 1908 issued by the 3rd respondent under Rule 9(6) of the SARFAESI Rules, 2002 without insisting the stamp duty.

For Petitioner : Mr.N.Manokaran
for Mr.P.Krishnan

For Respondent : Mr.R.Ramanlal
Nos.1 & 2 Additional Advocate General
Assisted by
Mr.Yogesh Kannadasan
Spl.Government Pleader

ORDER

This writ petition has been filed to issue a writ of mandamus directing the respondents 1 & 2 to enter the sale Certificate dated 14.08.2023 in Book No.1 u/s.89(4) of the Registration Act, 1908 issued by the 3rd respondent under Rule 9(6) of the SARFAESI Rules, 2002 without insisting the stamp duty.

2.The writ petitioner is an auction purchaser under the SARFAESI Act and after completion of auction process, sale certificate was issued by the third respondent /Authorised Officer, Indian Bank,



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Saidapet Branch, Bali Towers, No.1, Abdul Razack Street, Saidapet, Chennai – 15. When the said sale certificate was presented before the second respondent for registration, the second respondent neither registered nor refused to make entry in Book-1. As per Section 89(4) of the Registration Act and Section 17 (2) of the Act, it is not compulsory to register the sale certificate and it was also held in the decision of the Hon'ble Supreme Court as well as the Division Bench of this Court. However, the second respondent, for registering the same, is insisting the stamp duty for registration. Therefore, filed the present petition.

3.The learned counsel appearing for the petitioner would submit that as per Section 89(4) of the Registration Act, the sale certificate is not compulsory registered and it was also held in the decision of the Hon'ble Supreme Court in *Esjaypee Impex Private Limited Vs. Assistant General Manager and Authorised Officer, Canara Bank* reported in (2021) 11 Supreme Court Cases 537 and the Division Bench of this Court dated 17.11.2021 in W.P.No.20769 (*Tripower Properties Limited Vs. Inspector General of Registration*



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and others. Therefore, it would not attract the stamp duty but the second respondent has neither registered nor refused to make entry in Book-I, because of the State Government brought an amendment to the Stamp Act in G.O.Ms.28 dated 23.03.2023 subsequently to that effect the sale certificate would attract stamp duty, that was stayed until further orders by the Division Bench of this Court in WMP (MD).7754 of 2023 in WP (MD) No.8431 of 2023 on 13.04.2023 and give a direction to the second respondent to accept the certificate without insisting of filing fee and such filing will be subject to the result of the writ petition. It is further submitted that based on the order of the single bench of this Court dated 29.08.2023 in W.P.Nos.8512 of 2023 batch cases, the writ petition is to be allowed.

4.The learned Additional Advocate General assisted by the Spl.Government Pleader submitted that the decision referred by the Hon'ble Supreme Court is distinguishable and is not applicable in the present case. Therefore, the issue of the compulsory registration by the competent authority itself is distinguishable, however, in this case, only



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the certificate issued by the officer of the Nationalised Bank would not be applicable in the present case. Further, the division bench of this Court granted stay, subsequently, the single bench of this Court does not accept. Since the amendment has not yet become final, the issues cannot be accepted.

5.I have considered the matter in the light of the submissions made by the learned counsel appearing for the both parties and perused the materials available on record.

6.Admittedly, the writ petitioner is a auction purchaser and obtained the sale certificate from the competent authority and presented it for registration before the second respondent, but the second respondent has neither registered nor refused to make entry in Book-I. Considering the interim stay granted until further orders by the Division Bench of this Court, dated 13.04.2023 in WMP (MD).7754 of 2023 in WP (MD) No.8431 of 2023 and give a direction to the second respondent to accept the certificate without insisting of filing fee and such filing will be subject



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to the result of the writ petition, the second respondent is directed to accept the document presented by the writ petitioner and complete the registration process in accordance with law on or before 07.11.2023.

Accordingly, the writ petition is disposed of. No costs.

Index: Yes/No
Speaking Order: Yes/No
sms

09.10.2023

To

1. The Inspector General of Registration,
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P.VELMURUGAN, J.

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