IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **11.12.2023**

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.34183 of 2023

M/s. P & C Energy Infra Private Limited,
Rep.by its Director Mrs.D.Sowmiya
SF.No.87/2A, P & C Garden,
Mogappair West,
Chennai – 600 037. ... Petitioner

Versus

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

2.The Sub-Registrar,
Sriperumbudur SRO,
Sriperumbudur – 602 105,
Kancheepuram District.

3.The Authorised Officer,
Hinduja Leyland Finance Limited,
No.27A, Developed Industrial Estate,
Guindy,
Chennai – 600 032. … Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the order made in Na.Ka.No.712 / 2023 dated 22.11.2023 passed by the 2nd respondent, quash the same and consequently direct the respondents 1 and 2 to enter the Sale Certificate dated 18.10.2023 issued by the 3rd respondent in Book-I as per Section 89 (2) (4) of the Registration Act, 1908 without insisting registration fees from the petitioner.

For Petitioner	:	Mr. V. Raghavachari, Senior Counsel for Mr. P. Krishnan
For Respondents	:	Mr. Yogesh Kannadasan, Special Government Pleader

ORDER

The petitioner has filed this Writ Petition challenging the letter dated 22.11.2023 issued by the second respondent.

2. It is the case of the petitioner that on 18.10.2023, the third respondent conducted a sale under SARFAESI Act, in which, the petitioner is a successfull bidder in respect of the properties in question and he also issued a Sale Certificate. The said Sale Certificate was forwarded by the third respondent to the second respondent for making entries in Book-I under Section 89 of the Registration Act, 1908. Since the entry was not carried out by the second respondent, and showing lethargic attitude, the petitioner has earlier filed a Writ Petition in W.P.No.31999 of 2023 and the same was allowed on 09.11.2023, directing the respondents 1 & 2 therein to make the

entries in the Book-I and suitable orders on or before 26.11.2023, failing which, the second respondent was directed to appear before this Court. Even though this Court had passed a such order, the second respondent issued the impugned order dated 22.11.2023, stating that the petitioner has to pay 11% Stamp duty as per G.O.No.28, Commercial cum Registration Department, (J2), dated 23.03.2023, for registration. Aggrieved by order dated 22.11.2023, the present Writ Petition is filed before this Court.

3. The learned Senior Counsel appearing for the petitioner submitted that when the sale certificate was sent to the second respondent/registrar, without registering the same, the second respondent passed the impugned order dated 22.11.2023 and directed the petitioner to pay the Stamp duty to each of the subject properties mentioned in the sale certificate. As far as the collection of Stamp Duty is concerned, in the case of ***Senthil Kumaraiah.J Vs. State of Tamil Nadu & another, in WMP.(MD).No.7754 of 2023 in W.P.No.8431 of 2023,*** the Madurai Bench of this Court passed an interim order, directing the second respondent / Inspector of General of Registration, to accept the sale certificate for registeration without insisting on stamp duty, by citing the Judgment of the Hon'ble Supreme Court of India, in ***the Inspector General of Registration & another Vs. G.Madurambal & another, in***

SLP(C).No.16949 of 2022, wherein the appeal by the Registering authority was dismissed. Therefore, this Supreme Court has also settled the issue with respect to the collection of Stamp duty pertaining to the registeration of sale certificate. It is also useful to extract the similar order passed by this Court in WMP.(MD).No.7754 of 2023 in WP.(MD).No.8431 of 2023 dated 13.04.2023, (cited supra), which reads as follows:-

> *"Since we find that the impuged Rule is in violation of the order of the Honourable Supreme Court in the* ***Inspector General of Registration & another vs. G.Madhurambal & another, dated 11.11.2022*** *and in view of the settled position of law that a Judgment of the Court cannot be overruled by an amendment introduced by the executive order, there will be an order of the interim stay of operation of the impugned amendment until further orders.*
>
> *2. The Authority shall accept the certificate without insisting of filing fee. Such filing will be subject to the result of this writ petition. The concerned Registrar shall make an endorsement regarding pendency of this writ petition while filing those documents."*

4. In view of the above submissions made by the learned Senior Counsel for the petitioner, as far as the collection of Stamp duty is concerned, already following the decisions of the Hon'ble Supreme Court and this Court had already granted stay, and therefore, this Court directs the concerned respondents not to insist the persons who presented the sale certificate for

registration for payment of Stamp duty. Therefore, the respondents are directed to register the document and release the same to the petitioner with appropriate endorsement and payment of the stamp duty shall be subject to the outcome of the pending writ petition before the Madurai Bench in W.P.(MD).No.8431 of 2023.

5. With the above observations, the Writ Petition is disposed of, by directing the respondents to complete the registration of the sale certificate of the petitioner, within a period of four weeks from the date of receipt of a copy of this order. No costs.

11.12.2023

Index : Yes/No
Speaking order : Yes/No
Neutral Case Citation : Yes/No

Note: Issue Order Copy on 20.12.2023

To:

1.The District Revenue Officer,
Office of the Collectorate, Vengikkal,
Tiruvannamalai – 606 604.

2.The Revenue Divisional Officer,
Office of the Revenue Divisional Officer,
Tiruvannamalai – 606 604.

klt

P. VELMURUGAN, J.

klt

W.P.No.34183 of 2023

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