IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE **R.SUBRAMANIAN**

AND

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

**W.A.No.2019 of 2019**
**and CMP No.13610 & 13615 of 2019**

1. State of Tamil Nadu represented by
   The Secretary to Government,
   Commercial Taxes & Registration Department,
   Secretariat, Chennai 600 009.

2. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai 600 028.

3. The Deputy Inspector General of Registration,
   Rajaji Salai, Chennai 600 001. ...Appellants/Respondents

Vs.

C.Premakala ... Respondent/Petitioner

**Prayer**: Writ Appeal filed under Clause 15 of the Letters Patent, against the order dated 28.11.2016 passed in W.P. No.9831 of 2013 and to set aside the same.

For Appellants : Mr. L.S.M.Hasan Fizal
Additional Government Pleader

For Respondent : Mr. S.Mohanarangam

**JUDGMENT**

*(Judgment of the Court was delivered by R.SUBRAMANIAN, J.)*

Challenge in this Intra Court Appeal is to the order of the Writ Court allowing the Writ Petition filed by the respondent herein seeking a writ of Certiorarified Mandamus to quash the proceedings of the Inspector General of Registration dated 08.03.2013 and to forbear the respondents from recovering the alleged loss from the petitioner.

**2**. The petitioner who was working as a Sub Registrar in the Registration Department was charged for not collecting the Stamp Duty payable on the sale certificate issued by the Debt Recovery Tribunal. Therefore, a show case notice was issued to the respondent seeking explanation, as to why, the loss of Rs.4,78,700/- should not be recovered from the respondent at Rs.2,000/- per month. This was subject to challenge by the respondent before the Writ Court.

**3**. The Writ Court concluded that if the document is a sale certificate covered by Section 89 of the Registration Act, no stamp duty is payable and the same need not be registered at all. It was also concluded that once the sale certificate is forwarded to the Registrar, it is the duty of the Registrar to record it in Book I. Having held so, the Writ Court allowed the Writ Petition and quashed the proceedings. It also recorded a factual finding to the effect that the auction purchaser did not ask for registration of the document, therefore the levy of stamp duty would not arise.

**4**. Reliance is placed upon the judgment of a Single Judge of this Court, (Hon'ble Mr.Justice V.Ramasubramanian, as he then was) rendered on 23.12.2009, wherein it was held that the school of thought that such Certificates of sales do not attract stamp duty, in view of Sections 89(2) to (4) of the Registration Act, was not correct and stamp duty is payable on such certificates also. But the said judgment does not hold good any longer in view of the dictum of the Division Bench of this Court in ***M/s. Tripower Properties Limited v. Inspector General of Registration & Anr reported***

***in 2021(8)MLJ 603***, which has been confirmed by the Hon'ble Supreme Court in ***Inspector General of Registration & Anr Vs G.Madhurambal & Anr, SLP Civil No: 16949 of 2022 Dated 11-11-2022.***

**5**. In view of the above, we are unable to fault the Writ Court for having allowed the Writ Petition quashing the proceedings for recovery. We therefore do not see any merit in the Appeal, the Writ Appeal fails and it is accordingly dismissed. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

**6**. The learned Additional Government Pleader would submit that in view of the orders passed in the Contempt Petition, the Authorities have complied with the order of the Writ Court and disbursed the retiral benefits and pension of the petitioner. The said statement is recorded.

**(R.S.M., J.)** **(S.S.K., J.)**
25.01.2023

jv

Index : No

Internet :Yes
Speaking order
Neutral Citation: Yes

To

1. The Secretary to Government,
   State of Tamil Nadu represented by
   Commercial Taxes & Registration Department,
   Secretariat, Chennai 600 009.

2. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai 600 028.

3. The Deputy Inspector General of Registration,
   Rajaji Salai, Chennai 600 001.

**R.SUBRAMANIAN, J.**
**and**
**SATHI KUMAR SUKUMARA KURUP, J.**

jv

**W.A.No.2019 of 2019**
**and CMP No.13610 & 13615 of 2019**

**25.01.2023**