BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED**: 07.08.2023**

CORAM:

THE HONOURABLE MR.JUSTICE S.S.SUNDAR
AND
THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRVARTHY

W.A(MD)NO.1261 OF 2023
and
C.M.P(MD)No.9462 of 2023

The Sub-Registrar,
Sub-Registrar's Office,
Vadipatti,
Madurai District. :Appellant/Respondent

.vs.

K.Arumugasamy : Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.27688 of 2022, dated 23.12.2022.

For Appellant :Mr.Veerakathiravan,
Addl.Advocate General,
assisted by
Mr.J.K.Jeyaseelan
Govt.Advocate

For Respondent :Mr.S.Babu

JUDGMENT

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[Judgment of the Court was made by **S.S.SUNDAR,J.**]

This Writ Appeal is filed by the Sub-Registrar, Vadipatti, Madurai District challenging the order passed by the learned Single Judge in W.P(MD)No.27688 of 2022, dated 23.12.2022.

2.Mr.S.Babu, learned counsel takes notice on behalf of the sole respondent/Caveator. By consent of both parties, the Writ Appeal is taken up for disposal at the admission stage itself.

3.Challenging the notice, dated 24.11.2022, by which, the Petitioner was called upon to pay the deficit stamp duty to the tune of Rs.32,64,616/-, the Writ Petition is filed.The respondent purchased the property through Court monitored auction sale on 21.02.2022 and the Writ Petitioner's bid for a sum of Rs. 7,21,00,000/- was found to be the highest bid and sale certificate was also issued in favour of the Writ Petitioner in respect of the property in question. However, the appellant treating the transaction as one under-valued and issued a notice directing the Petitioner to pay a sum of Rs.32,64,616/- towards the deficit stamp duty and registration charges on the ground that the value of the building as per inspection report is Rs.5,26,76,484/-.

4.The Writ Petition is allowed by the learned Single Judge following the judgment in ***2022 SCC Online 1554***(***Registrar of***

Assurances and another .vs. ASL Vyapar Private Limited and another (***2022 SCC Online 1554)*** and held that the auction sale was monitored by the National Company Law Tribunal Division Bench-I, Chennai cannot be subjected to proceedings for under valuation. It is pointed out by the Honourable Supreme Court in the above case that the registering authority cannot doubt the value fixed for Court auction sale pursuant to the Court monitored process. Having regard to the scope of Section 47-A of the Act where the Registering Officer may refer the document only when he has reason to believe under valuation, the Honourable Supreme Court held that the independent determination of market value by a Registering Officer is not required to a Court auction sale and the sale transaction cannot be subject to reference under Section 47-A of the Act. This Court, having regard to the object behind Section 47-A is unable to see a power or discretion vested in the Registering Authority to re-assess the market value for the property sold in Court auction. Evena s per Sub Section 1 of Section 47A as applicable to the State of Tamil Nadu, only when the market value has not been truly setforth in the instrument, the Registering Officer, may refer the instrument for determination of market value. Hence the judgment of Honourable Supreme Court squarely applies in this case. This Court is bound by the judgment of the

Honourable Supreme Court as cited supra.

5.Further, in the decision of the Honourable Supreme Court in the case of ***V.N.Devadoss .vs.The Chief Revenue Control Officer cum Inspector and others reported in (2009) 7 Supreme Court Cases 438*** has held as follows:

''14.In the instant case, the factual scenario shows that the vendors of the appellant ie., M/s.Dunlop India Limited became a sick industry and was declared so under the provisions of the 1985 Act. Consequent upon such declaration, surplus properties and assets belonging to the said Company were disposed of on the basis of orders passed by BIFR and AAIFR by forming an Assets Sales Committee.The appellant submitted that his tender along with others and his offer of Rs.24.34 crores approximately was the highest , and the same was accepted by the Assets Sales Committee and also by the statutory authorities.The Company was granted permission to execute the sale deed in favour of the appellant.

15.The stand of the State is that wheat has been disclosed is clearly a sale value and the same cannot be termied as market value. There is fallacy in this argument.

16.Market value is a changing concept. The explanation to sub-rule(5) makes the posistiuon clear that (sic.market) value would be such as would have fetched or would fetch if sold in the open market on the date of execution of the instrument of conveyance. Hence, the property was offered for sale in the open market and bids were invited.That being so, there is no question of any intention to defraud the revenue or non disclosure of the correctprive. The factual scenario as indicated aboe goes to show that the properties were disposed of by the orders of BIFR and AAIFR and that too on the basis of value fixed by Assets Sales Committee. The view was expressed by the Assets Sales Committee which consisted of members such as representatives of IDBI, debenture-holders, Government of West Bengal and Special Director of BIFR. That being so, there is no possibility of any undervaluation and therefore, Section 47-A of the Act has no application. It is not correct as observed by the High Court that BIFR was only a mediator.''

6.Further in paragraph 18 of the above judgment, it is held that ''on the facts of the case, it cannot be said that Section 47-A has any application because there is no scope for entertaining a doubt that there was any under-valuation''. Hence, this Court is not inclined to interfere with the order of the learned Single Judge.

6.Accordingly, the Writ Appeal is dismissed. No costs.Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R.,J.] [D.B.C.,J.]
07.08.2023

Index:Yes/No
Internet:Yes/No
NCC:Yes/No
vsn

S.S.SUNDAR, J.
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JUDGMENT MADE IN

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