BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.12.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.29515 of 2023
and
W.M.P(MD) Nos.25481 & 25482 of 2023

M/s.Panindia Tubes Pvt. Ltd.,
Rep by its Authorized signatory,
No.20-385/1/26 Plot, 402, Sai Residency Bid,
Lane Kiran Function Hall,
Venkatapur (W), Tirumalagiri,
Thirumalagherry H.O.,
Hyderabad,
Telangana – 500 015. ... Petitioner

Vs.

1. The Inspector General of Registration,
   No.100, Santhome High Road,
   Santhome,
   Chennai.

2.The Sub Registrar,
Budalur,
Thanjavur District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order passed by the 2nd respondent in his proceedings Letter No.01/2023 dated 06.12.2023 demanding the petitioner to make payment of deficit in stamp duty of Rs.78,22,199/- and registration charges of Rs.22,34,915/- and miscellaneous charges of Rs.2,886/- and quash the same as illegal, arbitrary and without jurisdiction and consequently directing the respondents to refund the excess amount remitted towards registration of the sale certificate in Doc. No.2810/2023 on the file of the 2nd respondent.

For Petitioner : Mr.B.Saravanan
Senior Counsel
for Mr.D.Kirubakaran

For Respondents: Mr.M. Sidharthan

Additional Government Pleader

ORDER

Heard the learned Senior Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2. The petitioner participated in an auction held under the SARFAESI Act, 2002. The petitioner purchased the petition mentioned property. The Authorized Officer of the State Bank of India issued sale certificate, dated 16.10.2023. It was also forwarded to the second respondent. The said document was entered in Book-I. It was registered as document No.2810 of 2023. However, it has not been handed over to the petitioner. The stand of the Registering Authority that there has been under valuation. It is also proposed to initiate action under Tamil Nadu Revenue Recovery Act, if the balance stamp duty is not paid. Challenging the said notice, dated 06.12.2023, the present Writ Petition came to be filed.

3. As rightly pointed out by the learned Senior counsel for the petitioner, the issue on hand is no longer *res integra*. The Hon'ble Apex Court in a decision reported in ***2021(11) SCC – 537*** (***Esjaypee Impex Pvt Ltd Vs. Asst. General Manager and Authorised Officer, Canara Bank***) had held as follows :

> *"16. We are of the view that the mandate of law in terms of Section 17(2) (xii) read with Section 89(4) of the Registration Act, 1908 only required the authorised officer of the bank under the SARFAESI Act to hand over the duly validated sale certificate to the auction purchaser with a copy forwarded to the registering authorities to be filed in Book I as per Section 89 of the Registration Act."*

4. A learned Single Judge of this Court vide order, dated 12.09.2022 in W.P.No.23237 of 2018 held as follows :

> *"25. From the above discussion, it could be seen that in view of the pronouncement of the Hon'ble Supreme Court in Esjaypee Impex Pvt Ltd v. Assistant General Manager and*

Authorised Officer, Canara Bank, the law as it stands today is that an Authorised Officer, who conducts a sale under the provisions of the SARFAESI Act, would be a Revenue Officer and the certificate issued by him in evidence of such sale, would be a document which is not compulsorily registrable under Section 17(2)(xii) of the Registration Act. It would be sufficient, if the document is lodged with the Registrar under Section 89(4) to be filed by him in the Book-I maintained by him. The decisions of this Court in the Inspector General of Registration v. K.K.Thirumurugan, (Division Bench,) The Inspector General of Registration v. Kanagalakshmi Ganaguru, (Division Bench), Dr.R..Thiagarajan v. Inspector General of Registration, (Full Bench) and The Inspector General of Registration v. Prakash Chand Jain, (Division Bench) are no longer good law, in view of the pronouncement of the Hon'ble Supreme Court in Esjaypee Impex Pvt Ltd v. Assistant General Manager and Authorised Officer, Canara Bank.

26. The next question that would arise is to *the amount of stamp duty and registration charges payable, if such certificate is presented for registration. Article 18 of the Stamp Act, provides for Stamp Duty payable on a certificate of sale granted by a Civil or Revenue Court or Collector or other Revenue Officer. Clause (c) of Article 18 makes the duty payable for a conveyance would apply to a sale certificate also. Under Article 23 of the Stamp Act, the Stamp Duty payable on a sale is 5% as per G.O.Ms.No.46-CT and All Department dated 27.03.2012. As already pointed out since the document would not be a conveyance there is no question of payment of any surcharge either under Section 116-A of the Tamil Nadu District Municipality Act 1920 or under the Tamil Nadu Duty on Transfer of Property (In Municipal Areas) Act (32 of 2009).”*

5. The impugned notice is set aside and the second respondent is directed to hand over the petition mentioned registered sale certificate to the petitioner forthwith and without any delay.

This writ petition is allowed, accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

13.12.2023

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

RM

To:

1.The Inspector General of Registration,
No.100, Santhome High Road,
Santhome,
Chennai.

2.The Sub Registrar,
Budalur,
Thanjavur District.

G.R.SWAMINATHAN, J.

RM

W.P(MD)No.29515 of 2023

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