IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.07.2024**

CORAM:

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

AND

THE HONOURABLE MR.**JUSTICE R.SAKTHIVEL**

Writ Appeal No.1058 of 2024
and CMP No.7649 of 2024

The Sub-Registrar Joint-1,
Ootacamund,
The Nilgiris. ... Appellant

Vs.

1. NavaratanBothra

2. TarikaBothra

3. The Authorised Officer,
Canara Bank,
Saligramam Branch. .. Respondents

Prayer: Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order dated 29.08.2023 made in W.P. No.7015 of 2023.

For Appellants : Mr.R.Ramanlaal,
Additional Advocate General
Assisted by Mr.L.S.M. Hasan Faizal,
Additional Government Pleader

Respondent : Mr. Suny Sheen
for M/s. V.Srimathi, for RR1 & 2

J U D G M E N T

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

The Sub Registrar Joint I, Udhagamandalam, is on Appeal aggrieved by the order passed in WP No.7015 of 2023. The prayer in the said Writ Petition reads as follows:

> *"Issue a Writ of Certiorarified Mandamus or any other writ, order or direction to call for the records in Ka.En.175/R/2023 dated 08.02.2023 on the file of the first respondent and quash the same as illegal, incompetent and wholly without jurisdiction and further direct the first respondent to file the sale certificates dated 22.12.2022 forwarded by the second respondent in the true letter and spirit of*

Section 89(4) of the Registration Act, 1908."

2. The first respondent/petitioner in the Writ Petition sought for a writ of Certiorarified Mandamus to quash the order dated 08.02.2023 and to further direct the respondent to file the Sale Certificate dated 22.12.2022 under Section 89(4) of the Registration Act. The first respondent was declared the highest bidder in an E-auction conducted by the third respondent. A certificate of sale to that effect was issued on 21.01.2023 by the Authorised Officer. The same was forwarded to the appellant for being filed under Section 89(4) of the Registration Act. The appellant refused to file the document and claimed that necessary stamp duty he has not been paid. The payment of filing fee does not arise since the document was forwarded even prior to 23.03.2023, the date on which G.O.28 was issued.

3. The learned Single Judge after noticing the judgment of the Hon'ble Supreme Court in ***The Inspector General of Registration & Anr. vs. G.Madhurambal and Anr.,*** *reported in* ***2022 SCC OnLine SC 2079,*** made in SLP No.16949 of 2022 allowed the Writ Petition directing the document to be filed without demanding stamp duty or registration charges.

It is this order which is sought to be challenged in this Appeal.

4. We have heard Mr.R.Ramanlaal, learned Additional Advocate General assisted by Mr.L.S.M. Hasan Fizal, learned Additional Government Pleader appearing for the appellant and Mr.Sunny Sheen, learned counsel appearing for the respondents 1 and 2.

5. Mr.R.Ramanlaal, learned Additional Advocate General appearing for the appellant would vehemently contend that once the sale certificate is treated as a conveyance under Article 18 read with Article 23 of the Stamp Act, necessary stamp duty is payable and it cannot be filed under Section 89 of the Registration Act, without payment of stamp duty. The issue relating to payment of stamp duty on a sale certificate is no longer *res integra*. The Hon'ble Supreme Court in ***The Inspector General of Registration & Anr. vs. G.Madhurambal and Anr.,*** *reported in* ***2022 SCC OnLine SC 2079,*** had held that no stamp duty is payable on sale certificates which are filed for registration. The contention of the Government that the Authorised Officer of a Bank will not the Revenue Officer within the meaning of Section 89(4) of the Registration Act, was also rejected by the

Division Bench in ***The Sub Registrar, Neelangarai vs. Tripower Enterprises (P) Limited***, made in WA No.633 and 1503 of 2022.

6. In ***Reality Associates v. The Asst. General Manager and Authorised Officer & Anr.,*** made in Application diary No.19262 of 2021 in SLP (C) No.29752 of 2019 by order dated 29.10.2021, the Hon'ble Supreme Court observed as follows:

> *"The direction has already been passed on 05.01.2021 for the duly validated certificate to be issued to the auction purchaser with a copy forwarded to the registration authorities to be filed in Book I as per Section 89 of the Registration Act. We may note that the effect of filing of the copies under the said Section 89 has the same effect as registration and obviates the requirement of any further action. The compliance of our direction already made on 05.01.2021 will not be impeded by any High Court judgment. Our order to be duly complied by the*

registering authority.

The applications stand disposed of."

7. In view of the above pronouncements of the Division Bench of this Court and the Hon'ble Supreme Court, we do not find any merit in the Appeal and the Appeal is **dismissed**. There will be a direction to the appellant to file the Sale Certificate under Section 89(4) of the Registration Act, within a period of four weeks from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

(R.SUBRAMANIAN, J.) (R.SAKTHIVEL, J.)
30.07.2024

jv
Index: No
Internet: Yes
Speaking order
Neutral Citation: No

To

The Sub-Registrar Joint-1,
Ootacamund,
The Nilgiris.

R.SUBRAMANIAN, J.
and

R.SAKTHIVEL, J.

(jv)

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