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

W.A.No.2162 of 2022
and
C.M.P.No.16123 of 2022

1.The Inspector General of Registration,
Santhome, Chennai.

2.The Sub-Registrar,
SRO Periamet,
Periamet, Chennai – 3.

3.The Recovery Officer,
Debts Recovery Tribunal – 1,
6th Floor, Spencers Towers,
No.770-A Anna Salai, Chennai – 2. ... Appellants

Vs.

M/s.SKG Merchandise P. Ltd.,
Rep. by its Director Mr. Mahendra Kumar Mohta,
Old No.199, De Mellows Road,
Choolai, Chennai – 112.

... Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent, to set aside the order dated 21.10.2021 made in W.P.No.28204 of 2013 and allow this writ appeal.

For Appellants	:	Mr.Ramanlal, Additional Advocate General Assisted by L.S.M.Hassan Faizal, Addl. Government Pleader
For Respondent	:	Mr.N.Nagu Sah

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JUDGMENT

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

The issue raised in this writ appeal viz., the effect of filing of sale certificate under Section 89(4) of the Registration Act is directly covered by the judgment of the Hon'ble Supreme Court in ***Inspector General of Registration and another Vs. G.Madhurambal and another*** reported in ***2022 SCC OnLine SC 2079.***

2. A Division Bench of this Court held that the filing of sale certificate under Section 89(4) of the Registration Act is only an administrative action and since a sale certificate has been held to be not a conveyance, the Registrar cannot demand stamp duty to be paid on the instrument, while the instrument is sought to be filed under Section 89(4) of the Registration Act only. It was also held that the Authorised Officer of a Bank acting under the provisions of The Securitisation and Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (SARFAESI Act) is a revenue officer for the purposes of Section 89(4) of the Registration Act, 1908.

3. This order of the Division Bench was challenged before the Hon'ble Supreme Court and the Hon'ble Supreme Court disposed of the appeal as follows:-

> ***1.*** *Learned counsel for the petitioner(s) has made a valiant endeavor to persuade us to interfere with the impugned judgment(s) but not successfully. It is logically so as this issue has been repeatedly settled and if one may say, a consistent view followed for the*

*last 150 years. We may refer to the judgments by the Madras High Court in the Board of Revenue No. 2 of 1875 (In Re : Case Referred) dated 19.10.1875 opining that a certificate of sale cannot be regarded as a conveyance subject to stamp duty, by the Allahabad High Court in **Adit Ram v. Masarat-un-Nissa** reported in **1883 SCC OnLine All 116** opining that a sale certificate is not an instrument of the kind mentioned in clause (b) of Section 17 of Act III of 1877 and is not compulsorily registrable and this Court's view in **Esjaypee Impex Pvt. Ltd. v. Asst. General Manager and Authorised Officer, Canara Bank** reported in **(2021) 11 SCC 537** opining 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 Purchase with a copy forwarded to the Registering Authorities to be filed in Book I as per Section 89 of the Registration Act and order of this Court in M.A. No. 19262/2021 in SLP(C) No. 29752/2019 dated 29.10.2021 opining that once a direction is issued for the duly validated certificate to be issued 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, it has the same effect as registration and obviates the requirement of any further action.*

2. It is time that the authorities stop filing unnecessary special leave petitions only with the objective of attaining some kind of a final dismissal from this Court every time. Costs this time has been spared but will not be spared the next time. *[Emphasis Supplied]*

3. *The needful be done in terms of the impugned judgment(s) within 15 days from today.*

4. *The special leave petitions are dismissed.*

5. *Pending applications stand disposed of.*

4. In view of the above pronouncement, we do not see any ground to interfere with the order of the learned Single Judge impugned in the writ appeal. The appeal therefore fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

5. We sincerely hope that the Government will henceforth at least follow the observations of the Hon'ble Supreme Court made in the highlighted portion above in future, by avoiding such frivolous appeals.

(R.S.M., J.) **(R.S.V., J.)**

dsa 30.07.2024

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

To:-

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