IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2024

CORAM

THE HONOURABLE MR. JUSTICE S. SOUNTHAR

W.P No.26010 of 2024

M/s.L V K Properties Pvt.Ltd.,
Rep by its Managing Director,
Mr.L.V.Karthikeyan,
No.3/7, Navarathna Garden,
1st Cross Street, Ekkattuthangal,
Guindy, Chennai. ...Petitioner

Vs.

1. The Inspector General of Registration,
   100, Santhome High Road,
   Chennai - 600 028.

2. The Sub Registrar,
   Marakkanam Sub Registrar Office,
   No.1/1, Sannadi Street,
   Marakkanam - 604 303,
   Tinidivannam Taluk,
   Villupruam District.

3. The Authorized Officer,
   The Union Bank of India,
   Stressed Asset Management Branch,
   3rd Floor, Andhra Bank Building,
   Sultan Bazar, Koti, Hyderabad - 500 001.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 & 2 to enter the Sale Certificate dated 20.12.2023 in Book No.1 u/s.89(4) of the Registration Act, 1908 issued by the third respondent under Rue 9(6) of the SARFAESI Rules, 2002 without insisting the stamp duty.

For Petitioner	:	Mr.P.Krishnan
For R1 & R2	:	Mr.M.Shahjahan Special Government Pleader

O R D E R

The petitioner herein seeks a direction to the respondents 1 & 2 to enter the Sale Certificate dated 20.12.2023 in Book No.1 as per Section 89(4) of the Registration Act, 1908.

2. The third respondent bank conducted an e-auction sale under SARFAESI Act. The petitioner participated in the said e-auction in respect of the subject property. The third respondent issued a sale certificate on 20.12.2023 to the petitioner. Thereafter, the third respondent forwarded a copy of the sale certificate dated 20.12.2023 to the second respondent for the purpose of making an entry in Book No.1 under Section 89(4) of the Registration Act. The second respondent neither entered the sale certificate in

Book No.1 nor refused the entry of the copy of the sale certificate but simply kept it pending. Therefore, the petitioner has come to this Court by way of this petition.

3. Mr. M. Shahjahan, learned Special Government Pleader, who takes notice for the respondents 1 & 2 would submit that the petitioner is liable to pay the stamp duty as required under article 18 of the Stamp Act and therefore the document is kept pending. Further, the learned Special Government Pleader submitted that the authorized officer of the third respondent bank cannot be treated as the revenue officer within the meaning of the Section 89 (4) of the said Act. Therefore, there is difficultly in registering the copy of the sale certificate under Section 89 (4) of the said Act.

4. The learned counsel for the petitioner submitted that the Division Bench of this Court in Writ Appeal No. 1058 of 2024 considered the similar issue and directed the respondent therein to enter the copy of the sale certificate in Book No.I. Similar order was also passed by this Court in WP.No.22896 of 2024. In this case, the third respondent only forwarded the copy of the sale certificate to second respondent for the purpose of making an

entry as required under Section 89 (4). The copy of the sale certificate cannot be treated as original sale certificate. The question of impounding document and demanding stamp duty will arise only if original document is before the registering authority. There is no question of demanding stamp duty for recording the copy of the sale certificate forwarded under Section 89(4) of the Registration Act. As far as the contention of the learned Special Government Pleader, the third respondent cannot be treated as the Revenue Officer within the meaning of Section 89 (4), the decision of the Division Bench of this Court in ***The Sub-Registrar Joint -1, Ootacamund, The Nilgiris Vs. Navaratan Bothra in W.A.No.1058 of 2024*** answers the same. The relevant portion as reads as follows:-

> *"5. .... 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 & Another vs.G.Madhurambal and Another****, 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 W.A.No.633 and 1503 of 2022. "*

5. I had an occasion to consider similar question in ***Devendra Bhandari and others vs. The Inspector General of Registration and others in W.P.No.22896 of 2024***, the relevant portion is extracted hereunder:-

> *"10. In view of the law laid down in above mentioned decisions, it is clear that the respondents are not entitled to insist on payment of stamp duty on the copy of the sale certificate forwarded to them for filing in Book No.1 under Section 89(4) of Registration Act. Therefore, the second respondent is directed to enter the revalidated sale certificate dated 20.01.2024 issued by the third respondent in Book No.1 as per the provision of section 89(4) of Registration Act without insisting on payment of any stamp duty within a period of two weeks from the date of receipt of copy of this order. It is also made clear that the order passed by this Court is subject to the outcome of writ petition in W.P.(MD).No.8431 of 2023."*

6. In view of the same, there is no difficulty in coming to the conclusion that the respondents 1 and 2 are not entitled to demand payment of stamp duty on the copy of the sale certificate forwarded to them under Section 89(4) of the Registration Act as held in the above mentioned decisions. Further, as held in the decision referred above the third respondent can be treated as a Revenue Officer within the meaning of under Section 89 (4) of the Registration Act and consequently, the second respondent is not entitled to refuse entry of copy of sale certificate forwarded to him in Book No.1.

7. Accordingly, this W.P.No.26010 of 2024 stands allowed and the second respondent is directed to enter the sale certificate dated 20.12.2023 forwarded by the third respondent in Book No.1, within a period of two weeks from the date of receipt of a copy of this order without insisting payment of stamp duty. It is also made clear that the order passed by this Court is subject to the outcome of writ petition in W.P. (MD). No.8431 of 2023. No costs.

09.09.2024

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order

av

To

1. The Inspector General of Registration,
   100, Santhome High Road,
   Chennai - 600 028.

2. The Sub Registrar,
   Marakkanam Sub Registrar Office,
   No.1/1, Sannadi Street,
   Marakkanam - 604 303,
   Tinidivannam Taluk,
   Villupruam district.

3. The Authorized Officer,
   The Union Bank of India,
   Stressed Asset Management Branch,
   3rd Floor, Andhra Bank Building,
   Sultan Bazar, Koti, Hyderabad - 500 001.

S. SOUNTHAR, J.

av

W.P No.26010 of 2024

09.09.2024