IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.12.2024

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

W.P.No.27586 of 2024

M/s.Ourland Engineering Works Pvt. Ltd.,
Represented by its Director, Mr.P.S.Sivaguru,
Present Office Address:
3rd Floor, Atandra Towers,
25, Thirumalai Road,
T.Nagar, Chennai-600 017. … Petitioner

Vs

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai, Tamil Nadu – 600 028.

2.The Sub-Registrar,
T.Nagar Registration Office,
Anna Salai, Fanepet,
Nandanam,
Chennai-600 035.

3.ICICI Bank Limited,
No.1, Cenotaph Road,
Rathna Nagar, Teynampet,
Chennai-600 018. ...Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India seeking to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the impugned order of Refusal Check Slip bearing No.RFL/Thiyagaraya Nagar/65/2024 dated 13.08.2024 and quash the same as illegal and improper and consequently direct the 2nd respondent to register the Sale Certificate issued by the 3rd respondent dated 14.03.2024 by receiving the stamp duty at 5% of the purchase money and registration fee at 1% of purchase money.

For Petitioner : Mr.M.Karthikeyan

For Respondents : Mr.P.S.Raman
Advocate General
Assisted by Mr.B.Vijay
Additional Government Pleader
For 3rd respondent : Mr.V.Suresh

ORDER

This Writ Petition is filed for a Certiorarified Mandamus, calling for the records of the 2nd respondent pertaining to the impugned order of Refusal Check Slip bearing No.RFL/Thiyagaraya Nagar/65/2024 dated 13.08.2024 and quash the same as illegal and improper and consequently direct the 2nd respondent to register the Sale Certificate issued by the 3rd respondent dated 14.03.2024 by receiving the stamp duty at 5% of the purchase money and registration fee at 1% of purchase money.

2. Heard the learned Counsels on either side.

3. This petition is filed to direct the 1st respondent to register / enter the Sale Certificate to register the Sale Certificate under Section 89(4) of the Registration Act, 1908, the Petitioner is before this Court. The issue is no longer res integra in the light of the Judgment in the case of ***the Inspector General of Registration and Another vs. G.Madhurambal and Another***, reported in ***2022 SCC Online SC 2079***. A two Judge Bench of the Hon-ble Supreme Court observed hat the consistent of sale cannot be regarded as a conveyance subject to stamp duty. The Court further observed 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 requirement of any further action is obviated.

4. In an earlier Judgment in the case of ***M/s.Esjaypee Impex Private Limited vs. The Assistant General Manager and Authorized Officer Canara Bank,*** reported in ***(2021) 11 SCC 537***, the three Judge Bench of the Hon-ble Supreme Court observed that the mandate of law that flows from a combined reading of Sections 17(2) (xii) and 89(4) of the Registration Act respectively is that the auction purchaser is entitled to receive the original sale certificate and a copy of the same is required to be forwarded to the Sub~Registrar for the purpose of filing in Book 1 as per the Registration Act.

5. On 19.11.2024, the possession has been reiterated by the two Judge Bench of the Hon-ble Supreme Court in Civil Appeal.No.12527 of 2024 rendered in ***The State of Punjab & Another vs. M/s.Ferrous***

Alloy Forgings Private Limited and Others, after considering the earlier orders observed as follows:-

> *"20. The position of law discussed above makes it clear that sale certificate issued by the authorised officer is not compulsorily registrable. Mere filing under Section 89(4) of the Registration Act itself is sufficient when a copy of the sale certificate is forwarded by the authorised officer to the registering authority. However, a perusal of Articles 18 and 23 respectively of the first schedule to the Stamp Act respectively makes it clear that when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the said Articles. As long as the sale certificate remains as it is, it is not compulsorily registrable. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of payment of stamp duty, etc. would arise."*

6. Therefore, in the light of these judicial pronouncements, the

Writ Petition is allowed. Accordingly, the impugned order of Refusal Check Slip bearing No.RFL/Thiyagaraya Nagar/65/2024 dated 13.08.2024 passed by the 2nd respondent is quashed. The 2nd Respondent is directed to register the Sale Certificate dated 14.03.2024 issued by the 3rd Respondent by receiving the stamp duty at 5% of the purchase money and registration fee at 1% of purchase money, in accordance with the mandate under Section 17(2)(xii) read with Section 89(4) of the Registration Act, 1908, within a period of two weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

04.12.2024

Index: Yes/No
Speaking order/non-speaking order
Neutral Citation: Yes/No
ssn

To

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai, Tamil Nadu – 600 028.

2.The Sub-Registrar,
T.Nagar Registration Office,
Anna Salai, Fanepet,
Nandanam,
Chennai-600 035.

P.T.ASHA, J.,

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