IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.12.2024

CORAM:

THE HONOURABLE Ms. JUSTICE P.T. ASHA

<u>W.P.No.31523 of 2024</u>

P.R.Vasudevan … Petitioner

Vs

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

2.The Sub-Registrar,
Kelammangalam Sub-Registrar Office,
Kelamangalam,
Krishnagiri District.

3.The Karur Vysya Bank Ltd.,
Represented by its Authorised Officer / Chief Manager,
No.1, 2nd Floor, Padmavathiyar Road,
Of.Peters Road,
Gopalapuram, Chennai. ...Respondents

<u>Prayer</u>: Writ Petition filed under Article 226 of the Constitution of India seeking Writ of Certiorarified Mandamus, to call for the records in Check Slip dated 30.03.2024 on the file of the 2nd respondent and quash the same and further direct the 2nd respondent to register the Sale Certificate dated 30.12.2023 issued by the 3rd respondent under Section 17(2)(xii) and 89(4) of the Registration Act.

For Petitioner : Mr.S.C.Viswanath
For Respondents 1 and 2 : Mr.B.Vijay
Additional Government Pleader
For 3rd respondent : Mr.P.Saravana Sowmiyan

ORDER

Challenging the order passed by the 2nd respondent refusing to register the sale certificate, the petitioner is before this Court.

2. The petitioner was the successful bidder in the auction conducted by the 3rd respondent-Bank under the provisions of the Sarfaesi Act in respect of the properties to an extent of 9 cents situate at Survey No.159/3 and 86 cents situate at Survey No.159/3A totally for an extent of 95 cents at Mathigiri Village, Hosur Taluk, Krishnagiri District.

3. The petitioner was a successful bidder in an auction for a sum of Rs.2,31,00,000/- for the said property. The entire sale consideration was also remitted by him and the 3rd respondent had issued Sale Certificate in his favour vide Sale Confirmation Letter dated 01.11.2023. The petitioner is still in possession of the said land. Three months later, the 3rd respondent had forwarded the sale certificate to the 2nd respondent for recording the same in the register maintained as per Section 89(4) of the Registration Act. The copy of the same was also forwarded to the petitioner. Though the 2nd respondent was duty bound to register the same, however, by impugned order dated 30.03.2024, the same was rejected for want of stamp and registration duty. The petitioner would submit that this return was in total dis-regard to the various judgments and directions given by both Apex Court as well as High Courts stating that Sale under Sarfaesi Act is a sale conducted by a Court / Revenue Officer and therefore does not attract stamp duty. The sale by public auction under the Sarfaesi Act is a revenue sale and

not to be construed as regular sale. Therefore, the petitioner is before this Court.

4. Heard the learned counsels on either side.

5. The issue is no longer res-integra, after the judgment of the Hon'ble Supreme Court in the case of ***Esjaypee Impex Pvt. Ltd., v. Assistant General Manager and Authorised Officer, Canara Bank,*** reported in (***2021) 11 SCC 537*** and in the case of ***the Inspector General of Registration & Anr. vs. G.Madhurambal & Anr.,*** reported in 2022 Live Law (SC) 969 and the recent judgment of the Hon'ble Supreme Court in Civil Appeal No.12527 of 2024 in the case of ***State of Punjab & Another v. M/s.Ferrous Alloy Forgings Pvt. Ltd.,& Others***, reported in ***[(2024) SCC OnLine 3372].*** In the recent judgment, the Bench after relying upon the aforesaid two judgments had 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, the refusal on the part of the 2nd respondent is

without basis and therefore, the same is quashed. Accordingly, this writ petition is allowed and the impugned order passed by the 2nd respondent is set aside and the direction is issued to the 2nd respondent to register the Sale Certificate as per Section 89(4) of the Registration Act, within a period of 2 weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

06.12.2024

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

To

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

2.The Sub-Registrar,
Kelammangalam Sub-Registrar Office,
Kelamangalam,
Krishnagiri District.

P.T.ASHA, J.,

ssn

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