BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.(MD)No.29541 of 2024
and
W.M.P.(MD)No.24913 of 2024

KGISL Infrastructures Private Limited,
Represented by its Executive Director Mr.P.Devaraj,
Having its registered office at
No.365, KGISL Campus,
Thudiyalur Road, Saravanampatti,
Coimbatore – 641 035 ... Petitioner

vs.

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

2.The Sub Registrar,
O/o. The Sub Registrar,
Palani – II, Palani, Dindigul District

3.The Official Liquidator,
O/o. The Official Liquidator, Hon'ble Madras High Court,
Corporate Bhavan 2nd Floor,
No.29, Rajaji Salai,
Chennai – 600 001 ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India to issue a writ of certiorarified mandamus, calling for the records of the impugned refusal slip issued by the 2nd respondent vide Refusal No.RFL/2 dated 22.03.2024 and consequently direct the 2nd respondent to register the sale certificate, dated 10.10.2023, issued by the 3rd respondent pursuant to the order passed by this Court in C.A.Nos.14 and 446 of 2023 in C.P. No.115 of 2004 dated 04.09.2023 and to file the above sale certificate dated 10.10.2023 in Book No.1 without insisting on any payment of stamp duty and registration charges.

For Petitioner : Mr.Naveen Kumar Murthi
for Mr.K.Shanmuga Sundaram

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by
Mr.M.Sarangan
Additional Government Pleader

ORDER

The present Writ Petition has been filed challenging the refusal slip issued by the 2nd respondent, dated 22.03.2024, on the ground that the sale certificate was presented for registration without payment of any stamp duty and registration charges.

2. The petitioner had purchased the properties, through auction sale, comprised in several survey numbers measuring 81.93 acres situated in

Pethanaikenpatti Village and Chinnakalayamputhur Village, Palani Taluk, Dindigul District for the sale consideration. In pursuant to the purchase, the petitioner was issued a sale certificate, which was later presented for registration. However, it was refused to register the same by the 2nd respondent on the ground that the petitioner failed to pay any stamp duty and the registration charges.

3. The learned counsel for the petitioner would submit that though this writ petition has been filed challenging the refusal slip issued by the 2nd respondent, it could suffice if a copy of the sale certificate forwarded by the 3rd respondent to be recorded in the book of records under Section 89(4) of the Registration Act in pursuant to the subsequent development. The issue in respect of whether a sale certificate requires registration or not, and if a sale certificate presented for registration, it requires stamp duty and registration fees as treated as conveyance.

4. The Supreme Court of India recently held, in the case of ***The State of Punjab & Another vs. M/s.Ferrous Alloy Forgings P Ltd. & Ors. [2024 INSC 890]***, as follows :

"15. In Smt. Shanti Devi L.Singh v. Tax Recovery Officer and Others reported in AIR 1991 SC 1880, this Court observed that since the certificate of sale is not a compulsorily registrable document in lieu of Section 17(2)(xii) of the Registration Act, the transfer of title in favour of the auction purchaser would not be vitiated on account of non-registration of the sale certificate.

16. In B.Arvind Kumar v. Govt. Of India and Others reported in (2007) 5 SCC 745, this Court observed that when a property is sold by public auction in pursuance of an order of the court and the bid is accepted and the sale is confirmed by the court in favour of the purchaser, the sale becomes absolute and the title vests in the purchaser. A sale certificate is issued to the purchaser only when the sale becomes absolute. The sale certificate is merely the evidence of such title. It is well settled that when an auction purchaser derives title on confirmation of sale in his favour, and a sale certificate is issued evidencing such sale and title, no further deed of transfer from the court is contemplated or required. Although in the said case, the sale certificate was registered yet this Court proceeded to observe that a sale certificate issued by a court or an officer *authorized by the court, does not require registration. Section 17(2)(xii) of the Registration Act, 1908 specifically provides that a certificate of sale granted to any purchaser of any property sold by a public auction by a civil or revenue officer does not fall under the category of non-testamentary documents which require registration under sub-section (b) and (c) of Section 17(1) of the said Act.*

17. The position of law is thus settled that a sale certificate issued to the purchaser in pursuance of the confirmation of an auction sale is merely evidence of such title and does not require registration under Section 17(1) of the Registration Act. It is not the issuance of the sale certificate which transfers the title in favour of the auction purchaser. The title is transferred upon successful completion of the sale and its confirmation by the competent authority after all the objections against the sale have been disposed of.

18. Recently, a three-Judge Bench of this Court in M/s Esjaypee Impex Private Limited v. The Asst. General Manager and Authorized Officer Canara Bank reported in (2021) 11 SCC 537 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.*

19. In Inspector General of Registration and Another v. G.Madhurambal and Another reported in 2022 SCC Online SC 2079, a two-Judge Bench of this Court observed that the consistent position of law is that a certificate 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.

20. The position of law discussed above makes it clear that sale certificate issued by the authorized 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."*

5. Thus, it is clear that the sale certificate is merely the evidence of such title, since it is issued to the purchaser only when the sale comes absolute and the title vests with the purchaser. Further, when auction purchaser derives title on the confirmation of sale in his favour and a sale certificate is issued, the evidence in such sale and title, no further deed of transfer from the Court is contemplated or required. Section 17(2)(xii) of the Registration Act, 1908 specifically provides that a certificate of sale granted to any purchaser of any property sold by a public auction by a civil or revenue officer does not fall under the category of non-testamentary

documents which require registration under sub-section (b) and (c) of Section 17(1) of the Registration Act, 1908.

6. Further, it is clear that if the sale certificate forwarded by the authority concerned to the registering authority for the purpose of filing in Book No.I as per the Registration Act, it does not require any stamp duty as well as the registration charges. If when the auction purchaser presents the original sale certificate for registration, it would attract stamp duty in accordance with the Articles 18 and 23 of the Stamp Act. It is only when the auction purchaser uses the certificate for some other purpose that the requirement of the payment of stamp duty, etc. would arise.

7. In view of the above and the restricted prayer sought for by the learned counsel for the petitioner, a copy of the sale certificate, which was already forwarded by the 3rd respondent to the 2nd respondent by its communication dated 11.10.2023, can be filed in Book No.I under Section 89(4) of the Registration Act.

8. Accordingly, the 2nd respondent is directed to file the sale certificate, dated 10.10.2023, issued in favour of the petitioner in Book

No.I under Section 89(4) of the Registration Act within a period of two weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

19.12.2024

Internet: Yes
Index : Yes/No
Speaking/Non Speaking order
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To

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

2.The Sub Registrar,
O/o. The Sub Registrar,
Palani – II, Palani, Dindigul District

3.The Official Liquidator,
O/o. The Official Liquidator, Hon'ble Madras High Court,
Corporate Bhavan 2nd Floor,
No.29, Rajaji Salai,
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G.K.ILANTHIRAIYAN, J.

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