IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 114 OF 2025

Vishal Laxman Arkal … Petitioner

Versus

The Inspector General of Registration & Ors. ... Respondents

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Mr. Shrikant Kompelli a/w. Mr. Manoj Pamal for the Petitioner.
Mr. A. I. Patel, Addl GP a/w. Ms. Rupali Shinde, AGP for Respondent Nos.1 & 2.

CORAM : M. S. KARNIK AND N. R. BORKAR, JJ.

DATED : 17th JUNE, 2025.

ORAL ORDER *(Per M. S. Karnik, J.)*

1. Heard learned counsel for the petitioner and learned AGP.

2. The petitioner had participated in the e-auction sale on 28.12.2023 when he was declared a successful bidder in respect of the secured asset. After the e-auction of the secured asset for Rs.22,51,000/- the respondent DCB Bank duly issued the Sale Certificate dated 15.01.2024 to the petitioner under Rule 9(6) of the Security Interest (Enforcement) Rules, 2002.

3. The petitioner by letters dated 05.06.2024 and 12.09.2024 requested the respondent Registering Authorities to make entries of the Sale Certificate dated 15.01.2024 in the Book-I under Section 89 of the Registration Act, 1908. The respondent-authority vide letters dated 29.07.2024 and 03.10.2024 directed the petitioner to pay the stamp duty

of Rs.4,26,540/- with 2% interest per annum.

4. It is the submission of learned counsel for the petitioner that the respondent cannot insist on the payment of stamp duty and registration fees in respect of the sale certificate issued in the present case. Learned counsel for the petitioner relied upon the judgment of the Hon'ble Supreme Court in **The State of Punjab & Ors. Vs. Ferrous Alloy Forgings P. Ltd. & Ors.** in Civil Appeal No. 12527 of 2024 decided on 19.11.2024, wherein the Supreme Court in paragraphs 17 to 20 has observed as under: -

> *"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 underSection 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.*
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> *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 MANU/SC/0265/2021 : (2021) 11 SCC 537 observed that the mandate of law that flows from a combined reading of Section 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.*
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> *19. In Inspector General of Registration and Anr v. G. Madhurambal and Anr. Reported in MANU/SCOR/112533/2022, 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 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 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. Learned AGP Shri Patel opposed the petition. Relying upon para 20 of the judgment in **The State of Punjab & Ors. Vs. Ferrous Alloy Forgings P. Ltd. & Ors.** (supra), it is submitted that a perusal of Articles 18 and 21 respectively of the first Schedule to the Stamp Act 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. The Hon'ble Supreme Court has observed that 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. In the light of the decision of the Supreme Court in **The State of Punjab & Ors. Vs. Ferrous Alloy Forgings P. Ltd. & Ors.** (supra), we have no hesitation in allowing the petition.

7. The sale certificate issued by the registering authority 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.

8. Learned counsel for the petitioner states that the auction purchaser has not presented the original sale certificate for registration but only for the purpose of entering in Book I which is not for the purpose of registration. Therefore, there is no requirement of payment of stamp duty.

9. It is made clear that if the petitioner presents original sale certificate for registration, it would attract stamp duty in accordance with the said provisions of law. As long as 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 would arise. The impugned letters dated 29.10.2024 and 03.10.2024 are quashed and set aside.

10. With this clarification, the petition is disposed of in above terms.

11. The entry in Book I may be made expeditiously.

(N. R. BORKAR, J.) **(M. S. KARNIK, J.)**