BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.31866 of 2025
and
W.M.P.(MD)Nos.25061 and 25062 of 2025

M/s.NSunil Pulp and Paper Mills (P) Ltd,
Rep.by its Director Sanjay Nachrani,
House NO.11, Jal Vihar Colony,
Raipur- 492 001,
Chhattisgarh State. ... Petitioner

Vs.

1.The Inspector General Registration,
100 Santhome High Road,
Pattinapakkam, Chennai – 28.

2.The Deputy Inspector General of Registration,
Integrated Registration Complex,
St. Mark Street, Near Anna Colony,
Back Side of John's Higher Secondary School,
Tirunelveli - 627 002.

3.The District Registrar,
Registration District of Tenkasi,
Integrated Registration Office Complex,
55, Railway Feeder Road,
Tenkasi - 627 811.

4.The Sub Registrar,
Karivalamvandanallur SRO,

336, Railway border Street,
K.V.V.Nallur - 627 753,
Tenkasi District.

5.CMA Muthiah Thevar Rajapandian,
Liquidator of M/s Aeon paper Mills Private Limited,
3/158, Bharathiar Street,
Indian Bank Colony,
Madurai 625 014. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call fur the records of the 4th respondent comprised in Notice I, Letter No.1/2024 dated 22.07.2024 in respect of Document No.2302/2021 registered with Karivalamvandanallur sub registered office and quash the same as arbitrary, illegal, without jurisdiction, unconstitutional and consequently, direct the 3rd and 4th respondents to release the Document No.2302/2021 and remove from all encumbrances endorsed without insisting to pay additional stamp duty and registration charges in Document No.2302/2021 within time frame fixed by this Court.

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R1 to R4.

ORDER

Heard both sides.

2.The writ petitioner purchased the petition mentioned property in an auction sale held under the aegis of the National Company Law , Tribunal Single Bench, Chennai in the matter of M/s.Aeon Paper Mills Private Limited. The petitioner paid a sale consideration of Rs.2,56,93,000/- on 11.08.2021. The sale certificate dated 25.05.2021 was issued. If the insolvency resolution professional who conducted the auction had sent the same directly to the registering authority, then it would have been filed and the question of paying stamp duty would not have arisen. But the petitioner chose to present the document on their own before the registering authority. Therefore, the sale certificate has to be treated as sale deed. The petitioner in fact paid the stamp duty and registration charges on that basis. Whileso, the petitioner was called upon to pay a deficit stamp duty as well as balance registration charge vide order dated 22.07.2024. Challenging the same, this writ petition has been filed.

3.The learned counsel for the petitioner draws my attention to the notice dated 27.10.2021 from which it can be seen that this demand was made as a result of the objection raised by the audit wing with regard to valuation.

4.Recently, vide order dated 23.09.2025, in W.P.(MD)No.1064 of 2025, I had quoted the decision of the Hon'ble Supreme Court reported in ***2022 SCC Onlie SC 1554 (Registrar of Assurances Vs. ASL Vyapar Private Limited)*** for the proposition that the registering authority cannot go into the issue of valuation and that even reference under Section 47A of the Indian Stamp Act would not arise at all. Paragraph Nos.13 and 14 of the order read as follows:-

> *"13.Coming back to the case on hand, the only question that calls for consideration is whether the registering authority is justified in not registering the sale certificate on the ground of undervaluation. In view of the decision reported in* ***2022 SCC OnLine SC 1554 (Registrar of Assurances Vs. ASL Vyapar Private Limited)*** *and the foregoing reasons, I hold that the question of making reference under Section 47A of the Indian Stamp Act does not arise at all (vide order dated 12.06.2025 in WA (MD)No.2737 and 2738 of 2024).*

14.It would be appropriate to make a reference to the decision by the Hon'ble Division Bench reported in ***(2024) 4 MLJ 754 (Vijayalakshmi Marketing, Partnership Firm Vs. State of Tamil Nadu)****. Paragraph Nos.5 to 10 of the said decision read as follows:-*

"5.The issue relating to payment of stamp duty on sale certificate is no longer res-integra. One of us [Hon'ble Mr.Justice R.Subramanian] has in Bell Tower Enterprises LLP, Rep. by its Managing Partner Vs. State of Tamil Nadu, Rep. by its Secretary to Government, reported in 2022 (5) CTC 454, after referring all the precedents on the issue of stamping of sale certificate had held that the stamp duty payable on the sale certificate is only 5% and the registration charges payable is 1% and had observed as follows:-

> *"25. From the above discussion, it could be seen that in view of the pronouncement of the Hon'ble Supreme Court in Esjaypee Impex Pvt Ltd v. Assistant General Manager and Authorised Officer, Canara Bank, the law as it stands today is that an Authorised Officer, who conducts a sale under the provisions of the SARFAESI Act, would be a Revenue Officer and the certificate issued by him in evidence of such sale, would be a document which is not compulsorily registrable under Section 17(2)(xii) of the Registration Act. It would be sufficient, if the document is lodged with the Registrar under Section 89(4) to be filed by him in the Book-I maintained by him. The decisions of this Court in the Inspector General of Registration v. K.K.Thirumurugan, (Division Bench,) The Inspector*

> *General of Registration v. Kanagalakshmi Ganaguru, (Division Bench), Dr.R..Thiagarajan v. Inspector General of Registration, (Full Bench) and The Inspector General of Registration v. Prakash Chand Jain, (Division Bench) are no longer good law, in view of the pronouncement of the Hon'ble Supreme Court in Esjaypee Impex Pvt Ltd v. Assistant General Manager and Authorised Officer, Canara Bank.*
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> *26. The next question that would arise is to the amount of stamp duty and registration charges payable, if such certificate is presented for registration. Article 18 of the Stamp Act, provides for Stamp Duty payable on a certificate of sale granted by a Civil or Revenue Court or Collector or other Revenue Officer. Clause (c) of Article 18 makes the duty payable for a conveyance would apply to a Sale Certificate also. Under Article 23 of the Stamp Act, the Stamp Duty payable on a sale is 5% as per G.O.Ms.No.46, CT and All Department dated 27.03.2012. As already pointed out since the document would not be a conveyance, there is no question of payment of any Surcharge either under Section 116-A of the Tamil Nadu District Municipality Act, 1920 or under the Tamil Nadu Duty on Transfer of Property (in Municipal Areas) Act (32 of 2009)."*

6. The said judgment was also followed by another learned Single Judge of this Court in N.C.Suresh Kumar and another Vs. Inspector General of Registration reported in 2023 (5) MLJ 176. Therefore, the demand made by the Sub-Registrar that the petitioner must pay enhanced stamp duty is not justified.

7. As regards the reference made under Section 47-A of the Stamp Act we are constrained to hold that such a reference is not authorized by Section 47-A. The Hon'ble Supreme Court in Registrar of Assurances and another Vs. ASL VYAPAR Private Ltd. & another made in Civil Appeal No.8281 of 2022 dated 10.11.2022 after referring to the earlier judgment in V.N.Devadass Vs. Chief Revenue Control Office -cum-Inspector and others reported in (2009) 7 SCC 438 held that a reference under Section 47-A cannot be resorted, where a sale is by public auction by the officers appointed by the Court. In doing so the Hon'ble Supreme Court observed as follows:-

> *"22. On the conspectus of the matter, we have not the slightest hesitation in upholding the view that the provision of Section 47A of the Act cannot be said to have any application to a public auction carried out through court process/receiver as that is the most transparent manner of obtaining the correct market value of the property.*
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> *23. It is no doubt true that in a court auction, the price obtainable may be slightly less as any bidder has to take care of a scenario where the auction may be challenged which could result in passage of time in obtaining perfection of title, with also the possibility of it being overturned. But then that is a price obtainable as a result of the process by which the property has to be disposed of. We cannot lose sight of the very objective of the introduction of the Section whether under the West Bengal Amendment Act or in any other State, i.e., that in case of under valuation of property, an aspect not uncommon in our country, where consideration may be passing through two modes – one the declared price and the other*

> *undeclared component, the State should not be deprived of the revenue. Such transactions do not reflect the correct price in the document as something more has been paid through a different method. The objective is to take care of such a scenario so that the State revenue is not affected and the price actually obtainable in a free market should be capable of being stamped. If one may say, it is, in fact, a reflection on the manner in which the transfer of an immovable property takes place as the price obtainable in a transparent manner would be different. An auction of a property is possibly one of the most transparent methods by which the property can be sold. Thus, to say that even in a court monitored auction, the Registering Authority would have a say on what is the market price, would amount to the Registering Authority sitting in appeal over the decision of the Court permitting sale at a particular price."*

8. The Court upheld the view expressed in V.N.Devadass Vs. Chief Revenue Control Office (supra) and answered the reference as follows:-

> *"31. We are, thus, of the view that this reference is required to be answered by opining that in case of a public auction monitored by the court, the discretion would not be available to the Registering Authority under Section 47A of the Act."*

9. In view of the above categoric pronouncement of the Hon'ble Supreme Court we conclude that the impugned action of the Sub-Registrar viz., the 3rd respondent are unwarranted and against law. The learned Single Judge however dismissed the writ petition at the admission stage itself and concluded that it will be open to the petitioner to raise all the issues in the 47-A *proceedings. Unfortunately the attention of the learned Single Judge was not drawn to the recent pronouncement of the Hon'ble Supreme Court in Registrar of Assurances and another Vs. ASL VYAPAR Private Ltd. & another (supra). Hence, we are forced to interfere with the order of the learned Single Judge.*

10. In fine, the writ appeal is allowed the order of the learned Single Judge dismissing the writ petition is set aside. The demand made by the sub-Registrar is also set aside. The 47-A proceedings are quashed. All duty collected from the appellant except the duty of 5% + 1% i.e., found payable as per the judgment of this Court in Bell Tower Enterprises LLP, Rep. by its Managing Partner Vs. State of Tamil Nadu, Rep. by its Secretary to Government (Supra) will be refunded to the petitioner with interest at 9% from the date of payment till date of repayment. It is seen that the petitioner has also paid a sum of Rs.74,50,000/- towards additional duty in the proceedings under Section 47-A of the Stamp Act. The said sum will also be refunded to the petitioner with interest at 9% from the date of payment viz., 22.03.2024 till date of repayment. No costs. Consequently, the connected miscellaneous petitions are closed."

5.In this view of the matter, the order impugned in the writ petition is quashed. The writ petition is allowed. The market value set out in the sale certificate shall be accepted as such by the registering authority. The document in question is said to have been registered. It shall also be released forthwith and without any delay. No costs. Consequently, connected miscellaneous petitions are closed.

07.11.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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