IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

254 **CWP-22786-2023 (O&M)**

DATE OF DECISION: 09.01.2025

RAM PARKASH SHARMA AND OTHERS … Petitioner (s)

Versus

STATE OF HARYANA AND OTHERS ... Respondent(s)

CORAM: HON'BLE MR. JUSTICE ANUPINDER SINGH GREWAL
HON'BLE MS. JUSTICE DEEPAK MANCHANDA

Present: Ms. Puja Chopra, Advocate for the petitioner(s).

Mr. Anant Kataria, DAG, Haryana.

Mr. Gaurav Goel, Advocate for the respondent/Bank.

Mr. Rahul Garg, Advocate for respondents No.6 & 7.

ANUPINDER SINGH GREWAL, J. (ORAL)

The petitioners are seeking a direction to the respondents to enter the sale certificate dated 27.02.2023 (Annexure P-1) in Book No.1 under Section 89 (4) of the Registration Act, 1908, without insisting on registration of the sale certificate under the Registration Act /payment of stamp duty.

Learned counsel for the petitioners submits that the petitioners are the successful auction purchaser and have paid the entire amount as per the terms and conditions of the auction. Learned counsel further submits that through this petition, petitioners have raised their grievance, that though the sale certificate has been issued but the same has not been entered by the revenue authorities in Book No.1 and they are insisting on registration of the sale certificate under the Registration Act and payment of stamp duty. She has relied upon the judgments of the Supreme Court in the cases of **The State of Punjab and another Vs. M/s Ferrous Alloy Forgings P. Ltd. & Others, Civil Appeal**

No.12527 of 2024, decided on 19.11.2024, **M/s Esjaypee Impex Private Limited Vs. Asst. General Manager and Authorized Officer Canara Bank, 2021 (11) SCC 537** and **Hariom Sharma and Others Vs. State of Haryana and others, SLP (Civil) Diary No.46851/2024**, decided on 02.12.2024.

Heard.

As per submissions made, the petitioners have paid a sum of Rs.96 lakhs and the sale certificate is stated to be issued to the petitioners on 27.02.2023 along with possession receipt dated 27.02.2023. No objection certificate was also issued on the same date. The petitioners are only seeking direction to the revenue authorities to enter the sale certificate in Book No.1.

It is trite that once sale certificate has been issued and brought to the notice of the revenue authorities the same is required to be entered in Book No.1. Reference can be made to the recent judgments of the Supreme Court in the cases of **The State of Punjab and another Vs. M/s Ferrous Alloy Forgings P. Ltd. & Others (supra)** and **M/s Esjaypee Impex Private Limited Vs. Asst. General Manager and Authorized Officer Canara Bank, (supra).**

The relevant extract of the judgment in the case of **The State of Punjab and another Vs. M/s Ferrous Alloy Forgings P. Ltd. & Others (supra)** is reproduced hereunder:

> "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 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."

The Supreme Court in the judgment of **M/s Esjaypee Impex Private Limited Vs. Asst. General Manager and Authorized Officer Canara**

Bank (supra), has held that as per Section 17 (2) (xii) read with Section 89 of the Registration Act, 1908, the authorized officer of the Bank under the SARFAESI Act has to handover the duly validated sale certificate to the auction purchaser with a copy being forwarded to the registering authorities to be entered in Book No.1. The relevant paragraph of the judgment is reproduced hereunder:

> "xxxxxx
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> 14. We are of the view that the mandate of law in terms of Section 17(2)(xii) read with Section 89 (4) of the Registration Act, 1908 only required the authorised officer of the bank under the SARFAESI Act to hand over the duly validated sale certificate 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.
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> xxxxxxx"

Consequently, the petition is allowed and respondent No.5 is directed to make an entry of the sale certificate in Book No.1 as per Section 89 of the Registration Act, 1908.

Pending application(s), if any, also stands disposed of.

(ANUPINDER SINGH GREWAL)
JUDGE

(DEEPAK MANCHANDA)
JUDGE

09.01.2025
SwarnjitS

Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No