IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25-03-2026

CORAM

THE HON'BLE MR JUSTICE S. M. SUBRAMANIAM

AND

THE HON'BLE MR.JUSTICE K. SURENDER

WA No. 2048 of 2023
and
C.M.P.No.17398 of 2023

1. The Inspector General Of Registration
   The Chief Controlling Revenue Authority,
   No.100, Santhome High Road, Santhome,
   Chennai-600 028.

2. The District Registrar
   Chennai (Central), No.182, Pycrofts Road,
   Royapettah, Chennai-600 014.

3. The Joint Sub Registrar-I
   No.182, Pycrofts Road, Royapettah,
   Chennai-600 014.

..Appellant(s)

Vs

M/s.Olymia Park Tech Park (Chennai) Pvt Ltd
Being the amalgamated Company of
M/s.KSM Housing P Ltd, No.1, SIDCO Industrial
Estate, Guindy, Chennai-600 032

..Respondent(s)

To set aside the order dated 04.04.2022 made in W.P.No.29840/2016 and allow this Writ Appeal.

For Appellant(s):	Mr.U.Baranidharan, Spl.Govt.Pleader
For Respondent(s):	Mr.K.J.Parthasarathy for Mr.C.J.Murugappan

JUDGMENT

(Judgment of the Court was delivered by S.M.Subramaniam J.)

Under assail is the writ order dated 04.04.2022 passed in W.P.No.29840 of 2016.

2. Inspector General of Registration along with District Registrar and Joint Sub-Registrar instituted the present intra court appeal mainly on the ground that the term "Advance" as contemplated under the Registration Act would include future payment of sale consideration at the time of registering the sale deed. To substantiate the said ground, the learned Special Government Pleader would rely on Schedule (I) to Section 78 of the Registration Act, 1908, and would contend that the registration fee will be leviable on an agreement of sell or resell shall be on the advance or earnest money. If no advance or earnest money is mentioned, the fee leviable shall be on the intended sale or the resale amount, as the case may be. Proviso to Clause states that in the case of an agreement to sell where possession is handed over or is to be handed over, the fee leviable shall be on the intended sale consideration.

3. Admittedly, in the present case, on the date of agreement, possession of the property was not handed over to the purchaser. The agreement was entered into between the parties on 10.02.2014. Clause 5 of the agreement, reads as under:

"5. The PURCHASER agrees to pay and the VENDOR agrees to receive the sale consideration in the following manner:

a. Rs.20,00,00,000/- (Rupees Twenty Crore only) to be paid at the time of execution of this Agreement for Sale.

The VENDOR hereby acknowledges receipt of the sum of Rs.19,80,00,000 (Rupees nineteen crore eighty lakh only) through RTGS to the VENDOR's Bank account with IDBI Bank Limited, Saidapet Branch, Chennai – 600 015 vide UTR Nos. (I) HDFCH14041847229 & (ii) HDFCH14041847334 each for Rs.9,90,00,000/- towards the above payment being the net amount after deduction of tax at source.

b. Rs.20,00,00,000 (Rupees Twenty Crore only) to be paid as follows by 31st May 2014.

> *i. Rs.17,00,00,000 (Rupees Seventeen Crore) or thereabouts as may be intimated by the VENDOR to be paid directly to the said Creditor towards settlement of the balance outstanding by the VENDOR to the creditor as on the date of intimation.*
>
> *ii. Rs.3,00,00,000 (Rupees Three Crore) or thereabouts being the balance amount out of Rs.20,00,00,000/- under the clause remaining after payment to the creditor as stated above. Payment of this amount shall be simultaneous to the deposit of the original documents received from the Creditors with M/s. Ar.L.Sundaresan, Advocate, 3rd Main Road, Gandhi Nagar, Adyar, Chennai – 600 020, as the mutually accepted Escrow Agent, which shall be completed within 21 working days of the payment of the PURCHASER to the Creditor.*

c. Rs.10,00,00,000 (Rupees Ten Crore only) on proving vacant possession of at least 30% of the Premises, before 31st August 2014.

d. Rs.10,00,00,000 (Rupees Ten Crore only) on proving vacant possession of at least 60% of the Premises, before 31st December 2014

e. Rs.20,00,00,000 (Rupees twenty crore only) on handing over of vacant possession of the Property and execution of Sale Deed, by 30th June 2015.

It is hereby agreed that for the purpose for proving the vacant possession under sub-clause (c) and (d) above, the area occupied by the VENDOR in the SCHEDULE PROPERTY for its own use shall be deemed to be vacant and that the VENDOR shall be entitled to occupy and use the said area till handing over the vacant possession to the PURCHASER as per Sub-clause (e) above.“

4. Relying on the said Clause, the learned Special Government Pleader would contend that the advance amount, in the present case, would be construed as Rs.80 crores which is the total sale consideration chargeable under the Registration Act. The respondent has already paid the entire registration fee with protest. Thus, the writ Court ought not to have allowed the writ petition.

5. Learned counsel for the respondent would oppose by stating that the actual advance amount paid and received was only a sum of Rs.20 crores and therefore, the appellants are entitled to receive registration fee to the actual advance amount of Rs.20 Crores. The writ Court has considered this aspect in paragraph No.8 of the impugned judgment and held that Sechedule (I) to Section 78 speaks about registration fee leviable on agreement to sell or resell. The registration fee is leviable only on the advance or earnest money and further possession is handed over or is to be handed over on the date of agreement, the registration charge shall be leviable on the intended sale consideration.

6. Admittedly, in the present case, possession was not handed over to the respondent. Reading of the covenant of the sale agreement would clearly indicate that the respondent paid a sum of Rs.20 crores as advance of sale consideration and the remaining sale consideration was not paid on the date of registration of sale agreement. Any condition agreed between the parties which is futuristic is not chargeable under section 78 which has been rightly considered by the writ Court. The amount paid as on the date of registration would form “advance” and not any future amount as agreed upon between the parties in the sale agreement. In all cases, where agreement of sale are entered into, the details of the future payments to be made would be reflected in the agreement of sale and it does not mean that the appellants’ office can charge for the entire sale consideration, when the registration fee is collected during the time of registering of the sale agreement. Thus, there is no perversity in respect of the findings made by the writ Court in the order impugned and the same stands confirmed. The excess amount recovered from the respondent is directed to be refunded within a period of eight weeks from the date of receipt of a copy of this order. Accordingly, the Writ Appal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.,J.) (K.S.,J.)
25-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

vsi

S.M.SUBRAMANIAM, J.
AND
K.SURENDER, J.

vsi

WA No. 2048 of 2023

25-03-2026