IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26-02-2026

CORAM

THE HON'BLE MR JUSTICE SENTHILKUMAR RAMAMOORTHY

WP No. 47808 of 2025

Casurina Bay Farms Private Limited,
Represented by its Managing Director, No.4/231A,
MGR Salai, 6th Street, Palavakkam,
Kanchipuram, Tamilnadu-600 041.

..Petitioner

Vs

1. The Inspector General of Registration,
   100, Santhome High Road, Mullima Nagar,
   Mandavelipakkam, Raja Annamalaipuram,
   Chennai, Tamilnadu-600 028.

2. The District Registrar,
   The District Registrar Office, No.63/40,
   Perumal Street, Tindivanam Ho,
   Tindivanam-604001.

3. The Sub-Registrar,
   Marakkanam Sub-Registration Office, No.1/1,
   Sannadi Street, Marakkanam-604 303.

..Respondents

<u>Prayer</u> : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus seeking suitable direction against the Respondent No.3 to register and release the document bearing pending Registration No. P/69/2025 on the file of the 3rd respondent and consequently direct respondents 1 to 3 to refund the sum of Rs.41,59,300/- (Rupees Forty One

Lakhs and Fifty Nine Thousand Three Hundred only) paid towards stamp duty and Rs.20,79,650/- (Rupees Twenty Lakhs and Seventy Nine thousand and Six Hundred and Fifty Only) paid towards registration charges.

For Petitioner: Mr. M.S.Krishnan, Senior Advocate for Mr. Anirudh Krishnan

For Respondents: Mr. P.S.Raman, Advocate General assisted by Mr.U.Baranidharan, Spl. G.P.

ORDER

The petitioner participated in an e-auction held under the Insolvency and Bankruptcy Code, 2016 (IBC) and was the successful bidder. Therefore, sale certificate dated 25.08.2025 was executed in favour of the petitioner. The petitioner paid stamp duty at 7% of the sale consideration specified in the sale certificate and registration charges at 2% thereon. The document was assigned pending document no.P/69/2025. The payment of stamp duty and registration fees at the rates mentioned above was under protest.

2. By this writ petition, the petitioner seeks a direction for the registration and release of the pending document and also seeks refund of sum of Rs.41,59,300/- towards stamp duty and Rs.20,79,650/- towards registration charges.

3. Learned senior counsel for the petitioner contends that a reference under Section 47A of the Indian Stamp Act, 1899 does not lie in respect of properties purchased in a public auction. In support of this contention, he relies upon the judgment of the Supreme Court in *V.N.Devadoss v. Chief Revenue Control Officer-cum-Inspector and others, (2009) 7 SCC 438 (V.N.Devadoss)*. He also relies on the subsequent judgment of the Supreme Court in *Registrar of Assurances & another v. ASL Vyapar Private Limited and another, Civil Appeal No.8282 of 2022, judgment dated 10.11.2022 (ASL Vyapar)*. He refers to the judgment of the Full Bench of this Court in *Dr.R.Thiagarajan v. Inspector General of Registration and others, 2019 SCC OnLine Mad 9085 (Dr.R.Thiagarajan)* and contends that the said judgment did not take into account the earlier judgment of the Supreme Court in *V.N.Devadoss*. In light of the consistent position taken in these judgments that Section 47A cannot be invoked in cases wherein the market value is determined pursuant to an auction, he submits that the petitioner is entitled to the registration and release of the pending document.

4. As regards the request for refund, in view of the urgent requirement for registration and release of the document, he submits that he may be granted leave to seek such refund in a subsequent proceeding.

5. Learned Advocate General appears on behalf of the State. He invited my attention to the orders passed in *S.L.P.No.26950 of 2024, The Inspector General of Registration and another v. Kovai Medical Center and Hospital Limited and another,* fixing the date for final hearing in a batch of cases pertaining to the applicability of Section 47A to public auctions conducted under several statutes. He relies upon the judgment of the Division Bench of this Court in *Inspector General of Registration v. Kanagalakshmi Ganaguru, 2017 SCC OnLine Mad 38100*, which distinguished the judgment in *V.N.Devadoss* on the ground that market price was determined therein by the Asset Sale Committee consisting of representatives of IDBI, debenture-holders, the Government of West Bengal and the Special Director of BIFR. In these circumstances, learned Advocate General submits that the matter may be kept pending until a decision is taken by the Hon'ble Supreme Court.

6. In view of the request made by learned senior counsel for the petitioner to grant leave to initiate separate proceedings as regards refund, the only issue to be decided is whether proceedings under Section 47A of the Registration Act lie.

7. In *V.N.Devadoss*, the Supreme Court dealt with a sale under supervision of the Board For Industrial and Financial Reconstruction (BIFR)in proceedings under the Sick Industrial Companies (Special Provisions) Act,1985.

In that context, the Supreme Court held as under in paragraphs 16 to 18, which are set out below:

"16. Market value is a changing concept. The explanation to sub-Rule (5) makes the position clear that (sic market) value would be such as would have fetched or would fetch if sold in the open market on the date of execution of the instrument of conveyance. Here, the property was offered for sale in the open market and bids were invited. That being so, there is no question of any intention to defraud the revenue or non-disclosure of the correct price. The factual scenario as indicated above goes to show that the properties were disposed of by the orders of BIFR and AAIFR and that too on the basis of value fixed by Assets Sales Committee. The view was expressed by the Assets Sales Committee which consisted of members such as representatives of IDBI, debenture-holders, Government of West Bengal and Special Director of BIFR. That being so, there is no possibility of any undervaluation and therefore, Section 47-A of the Act has no application. It is not correct as observed by the High Court that BIFR was only a mediator.

17. Sale has been defined under Section 54 of the Transfer of Property Act, 1882 (in short "the TP Act"). Although the Act has not included the definition of sale, Section 2(10) of the Act defines "conveyance" as including a conveyance on sale, every instrument and every decree or final order of any civil *court by which property whether immovable or movable or any estate or interest in any property is transferred to, or vested in or declared to be of any other person, inter vivos, and which is not otherwise specifically provided for by Schedule I or Schedule 1-A, as the case may be.*

18. On the facts of the case it cannot be said that Section 47-A has any application because there is no scope for entertaining a doubt that there was any under valuation. That being so, the High Court's order is clearly unsustainable and is set aside. The registration shall be done at the price disclosed in the document of conveyance. There is no scope for exercising power under Section 47-A of the Act as there is no basis for even entertaining a belief that the market value of the property which is the subject-matter of conveyance has not been truly set forth with a view to fraudulently evade payment of proper stamp duty."

8. In the subsequent judgment in *ASL Vyapar*, the Supreme Court dealt with a sale in a civil suit and a sale by the Official Liquidator. In that context, the Supreme Court held that Section 47A has no application to a public auction carried out through a court process or by a receiver. These conclusions were reached after relying upon *V.N.Devadoss*. Paragraphs 22 & 31 of the said judgment are set out below:

"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.

.. ..

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. A similar view has also been taken by a Division Bench of this Court in *Inspector General of Registration and others v. K.K.Thirumurugan, 2014 SCC OnLine Mad 11454*. In relevant part, paragraph 10 of the said judgment reads as under:

"10. .. .. The appellants have not been in a position to show that Section 47-A of the Indian Stamp Act, 1899, would be applicable to a public auction sale of the properties which are brought for sale, as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the rules framed thereunder. It cannot be stated that the document presented for registration had been undervalued by those who had presented the document for registration. Therefore, the question of re-assessing the market value of the property, which had been brought for sale by way of a public auction, under the provisions of the Securitisation and Reconstruction

of Financial Assets and Enforcement of Security Interest Act, 2002, by invoking Section 47-A of the Indian Stamp Act, 1899, would not arise. Hence, we find it appropriate to dismiss the Writ Appeal. Accordingly, the Writ Appeal stands dismissed."

This judgment was, however, not accepted by the Full Bench of this Court in *Dr.R.Thiagarajan.*

10. As on date, the agreed position is that the earlier judgments of the Supreme Court with regard to the inapplicability of Section 47A to public auctions continue to hold the field. Although the Supreme Court has decided to consolidate matters relating thereto and hear the same, no interim protection has been granted as on date.

11. As is noticeable from extracts set out above, the Supreme Court held categorically in *V.N.Devadoss* that Section 47A has no application in proceedings wherein the market price was determined in a sale under the supervision of the BIFR. A similar conclusion was drawn in *ASL Vyapar* in the context of a court sale by a civil court and by the companies court. In the case at hand, the sale was effected in course of liquidation proceedings by the adjudicating authority (i.e. the National Company Law Tribunal) functioning in terms of the IBC. In the face of the above mentioned judgments of the Hon'ble Supreme Court, which continue to hold the field, I conclude that the petitioner

is entitled to registration and release of the pending document. Taking note of the pending proceedings before the Hon'ble Supreme Court, I, however, grant leave to the State to initiate proceedings under Section 47A if the question of law is decided in favour of the State by the Hon'ble Supreme Court. Subject to this observation, the respondents are directed to register and release pending document no.P/69/2025 to the petitioner within three weeks from the date of receipt of a copy of this order. The petitioner is also granted leave to initiate separate proceedings in respect of refund.

12. The writ petition stands disposed of on the above terms without any order as to costs.

26-02-2026

Index : Yes/No
Internet:Yes/No
Neutral Citation : Yes/No

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SENTHILKUMAR RAMAMOORTHY, J.

KJ

To

1.The Inspector General of Registration,
100, Santhome High Road, Mullima Nagar, Mandavelipakkam, Raja Annamalaipuram, Chennai, Tamilnadu-600 028.

2.The District Registrar,
The District Registrar Office, No.63/40, Perumal Street, Tindivanam Ho, Tindivanam-604001.

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