

## **S. Tamilmani Vs The Inspector General of Registration Dept. of Registrations, Govt. of Tamil Nadu, District Revenue Officer (Stamps) and The Sub-Registrar (District Registrar Cadre)**

**Court:** Madras High Court

**Date of Decision:** Sept. 28, 2004

**Acts Referred:** Constitution of India, 1950 " Article 226

**Hon'ble Judges:** M. Chockalingam, J

**Bench:** Single Bench

**Advocate:** Ramalingam Associates, for the Appellant; P. Chandrasekaran, Additional Government Pleader, for the Respondent

**Final Decision:** Allowed

### **Judgement**

@JUDGMENTTAG-ORDER

M. Chockalingam, J.

The petitioner seeks a writ of certiorarified mandamus to quash the order of the first respondent dated 16.8.2004

and a direction to the third respondent to return to the petitioner the sale deed dated 7.4.2004.

2. Affidavit in support of the petition is perused. Heard the learned Counsel for the petitioner and the learned Additional Government Pleader for

the respondents also. The memo of instructions filed by the respondents is also perused.

3. As could be seen from the available materials, the petitioner before this Court is the purchaser of an immovable property, sold in auction by this

Court in the matter of M/s.Raveendra Mills Ltd., a company in liquidation, and he is the nominee of the auction purchaser. Under the provisions of

the Companies Act, in C.P.No.226 1999, there were winding up proceedings. Pursuant to the same, the assets of the company vested with the

Official Liquidator. The assets of the company were brought for sale in Company Application No.300 of 2002. Pursuant to the permission, the

Official Liquidator canvassed the sale of the assets in two lots as land & building and plant & machinery. The tenders were received, and the

auction was conducted in Court on 11.2.2003. The offer of one M/s.Navabharath Trading Corporation to purchase the land and building was at

Rs.3.00 crores and the plant and machinery at Rs.1.35 crores, and the same was accepted by this Court as the highest offer. By an order dated

11.2.2003, this Court confirmed the sale in two separate lots in favour of the said M/s. Navabharath Trading Corporation, Madras, and granted

time for payment of the sale consideration. On the first payment of Rs.1.35 crores, the said purchaser was permitted to remove the plant and

machinery from the company in liquidation. By an order dated 3.4.2003, this Court condoned the delay in payment of money and permitted the

purchaser to remove the machinery with police aid, confirming the sale and delivery of one lot. In respect of the land and building, the time was

extended, and permission was granted for the execution of the sale deed in favour of the nominee by an order dated 13.4.2003 on payment of the

consideration of Rs.3.00 crores. At that juncture, the said M/s. Navabharath Trading Corporation has nominated the petitioner as the purchaser

for the land and building of the company, and the entire consideration was paid, pursuant to which, the Official Liquidator executed the sale deed

on 7.4.2004. While the matter stood so, the sale deed dated 7.4.2004, was presented for registration on 12.4.2004. The third respondent

received the stamp duty of Rs.24.00 lakhs and registration charge also, but has assigned a pending number and has further retained the document,

and he has referred the same to the second respondent stating that the document was undervalued. A notice was served on the petitioner, to which

he has raised his objections before the first respondent stating that the third respondent should not have referred the matter to the second

respondent. An order was passed by the first respondent on 14.7.2004 stating that the value of the document has to be fixed, since the sale was

finalised on the basis of sealed tender. Apart from that, there was a direction that he should pay stamp duty for the entire value namely Rs.4.35

crores, which is being challenged before this Court.

4. The learned Counsel for the petitioner would submit that it was an auction conducted by the Official Liquidator, pursuant to the acceptance of

the highest offer made by one M/s. Navabharath Trading Corporation, of whom the petitioner is the nominee; that the property was sold in two

lots, one pertaining to the immovable properties namely land and building, and the other in respect of the plant and machinery; that the highest offer

that was made in respect of the land and building, was only Rs.3.00 crores; that the same was accepted by this Court, pursuant to which, a sale

deed was executed by the Official Liquidator on 7.4.2004, and under such circumstances, the order of the first respondent stating that it is

undervalued, and it should have been valued for Rs.4.35 crores is thoroughly unfounded, and hence, it has got to be set aside.

5. In answer to the above, it is contended by the learned Additional Government Pleader that the machineries and the land and building all

constitute one integral part, and hence, the total value of Rs.4.35 crores should have been taken as consideration, and the stamp duty should have

been paid therefor, and hence, the order of the lower authority has got to be sustained.

6. After careful consideration of the rival submissions made, the Court is of the considered opinion that it is a fit case, where the writ as asked for

by the petitioner, has got to be issued.

7. Only after accepting the highest offer, this Court has issued directions to the Official Liquidator to execute the sale deed. Accordingly, a sale

deed was executed by the Official Liquidator in respect of the land and building, in consideration of Rs.3.00 crores on 7.4.2004. Under such

circumstances, there cannot be insistence by the department stating that the stamp duty has got to be paid either for the guideline value or for the

higher value, since the machinery forms part of the building. A reading of the sale deed in question would clearly indicate that the assets namely

land and building were sold by the Official Liquidator under the sale deed only in consideration of Rs.3.00 crores, and hence, the contention of the

department has got to be negated. This Court is unable to notice any reason to hold that the document is undervalued, in view of the fact that it

was a sale conducted by the Official Liquidator, pursuant to the orders of this Court, that too in a public auction. Under the circumstances, this

Court is of the view that the contentions put forth by the respondents' side to sustain the order under challenge cannot be countenanced, and thus,

the order of the first respondent has got to be quashed. Accordingly, it is quashed.

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8. Therefore, this writ petition is allowed. A direction is issued to the third respondent to return the document, on registration of the same, to the

petitioner within a period of one month herefrom. No costs. Consequently, connected WPMP is closed.