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The Supreme Court of India clarifies the law on registration and stamping of a sale certificate issued in pursuance of an auction sale by a court

The Supreme Court of India (“**Supreme Court**”) in its recent judgement in *The State of Punjab and Another vs. Ferrous Alloy Forgings Private Limited and Ors*¹, has held that (a) a sale certificate issued under the Code of Civil Procedure, 1908 (“**CPC**”) is not compulsorily registrable; (b) no stamp duty in terms of the Indian Stamp Act, 1899 (“**Stamp Act**”), is payable when a copy of the certificate forwarded by the Registry of the Court to the registering authorities, for filing as required under the Registration Act, 1908 (“**Registration Act**”); and (c) the requirement to pay stamp duty would arise only when the person in whose favour the sale certificate is issued, voluntarily presents the sale certificate for registration or when the sale certificate is used to establish right/title over the property, in any proceedings. This judgement of the Supreme Court is significant since it clarifies the law on stamping and registration requirements of a sale certificate issued under the CPC and settles the principle of law on passing of title in an auction sale under CPC.

Brief facts

Ferrous Alloy Forgings Private Limited (“**FAFPL**”) was the purchaser of properties sold in a public auction conducted by the High Court of Punjab and Haryana High Court (“**P&H HC**”) in the liquidation process of Punjab United Forge Limited. In terms of Order XXI, Rule 92 of the CPC, the sale was confirmed in favour of FAFPL by the P&H HC *vide* order dated October 10, 1996. An application was filed before the P&H HC by FAFPL seeking issuance of sale certificate, which *vide* order dated April 13, 1999² held that stamp duty is payable on the sale certificate as applicable to a conveyance. The Registrar of P&H HC (“**Registrar**”) demanded FAFPL to pay stamp duty as applicable to a conveyance for issuing the sale certificate. Challenging the said directions of the Registrar, FAFPL filed a writ petition, wherein the division bench of the P&H HC held³ that the Registrar does not have powers to collect the stamp duty on a sale certificate and the Registrar is merely required to issue the original sale certificate to the auction purchaser and forward a copy of the same to the jurisdictional Sub-Registrar as per the Registration Act. Challenging the said order, the Revenue Department preferred an appeal before the Supreme Court.

¹ Judgement dated November 19, 2024, in C.A. No. 12527 of 2024. Neutral Citation 2024 INSC 890

² CA No. 554 of 1998

³ Judgement dated November 28, 2013, in Civil Writ Petition No.11055 of 2001 (O&M)

Decision of the Supreme Court

The Supreme Court dealt with various judicial precedents on the subject matters and held as under:

1. **Passing of title in an auction sale under CPC:** The Supreme Court relied on its judgment in *Municipal Corporation of Delhi vs. Pramod Kumar Gupta*⁴ and held that the title to the property sold in an auction under the CPC passes on to the auction purchaser when the objections to the sale are disposed of, confirming the sale in terms of Order XXI, Rule 92 of the CPC. Upon such confirmation, the sale becomes absolute and the title is vested with the auction purchaser⁵.
2. **Nature of a sale certificate:** The Supreme Court held that since the title passes upon confirmation under Order XXI Rule 92 of the CPC, the sale certificate issued thereunder is a mere formal declaration of the sale confirmation; and the sale certificate does not create or extinguish any title over the property. The Supreme Court, therefore, clarified that the sale certificate would not attract any stamp duty as applicable to an instrument of conveyance.
3. **Sale certificate is not compulsorily registrable:** The Supreme Court relied on Section 17(2)(xii) of the Registration Act and clarified that the sale certificate issued by the Registrar of the P&H HC in pursuance of a public auction is not a non-testamentary document requiring registration under Section 17(1) of the Registration Act. Therefore, it was held that a sale certificate issued under Order XXI, Rule 94 of the CPC is not compulsorily registrable. It was further clarified that the Registrar is merely required to forward a copy of the sale certificate to the jurisdictional Sub-Registrar in terms of Section 89(4) of the Registration Act for the purpose of filing the same in book 1. The Supreme Court relied on its earlier decision in *Inspector General of Registration and Another vs. G. Madhurambal and Anr*⁶ and clarified that once the copy of the sale certificate is forwarded to the Sub-Registrar's office for filing in book 1, the same has the effect of registration and no further action is required.
4. **Stamping of sale certificates:** The Supreme Court held that the stamp duty in terms of Article 18 read with Article 23 of Schedule 1 to the Stamp Act will have to be paid on the original sale certificate, when the same is presented by the auction purchaser or when the certificate is relied on or used for any purpose to establish the title.

In addition to the above, the appellants had contended that FAFPL had alternate remedy of filing an appeal against the order of the Company Court in pursuance of which the Registrar issued the directions; and hence a writ petition was not maintainable. While rejecting this contention, the Supreme Court reiterated the position of law that availability of alternative remedy does not divest the writ jurisdiction of a High Court under Article 226 of the Constitution of India if the case warrant such interference.

Conclusion

The judgement consolidates and clarifies the position of law on the nature of the sale certificate as an instrument evidencing title; and stamping and registration requirements of a sale certificate issued by the officer of a Court for sale of properties through public auction under the CPC. This judgement resolves the conflicting views taken by the officers of various High Courts and consolidates the position of law on the subject. This judgement will assist the purchasers who acquire properties in public auctions conducted in execution proceedings.

⁴ AIR 1991 SC 401.

⁵ *Arvind Kumar vs. Govt. Of India and Ors* reported in (2007) 5 SCC 745

⁶ 2022 SCC Online SC 2079.

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