Office of the INSPECTOR GENERAL OF REGISTRATION,

CHENNAI-600 028.

CIRCULAR

No.57027/C1/2017, Dated 26.04.2018.

Sub: Statutory Vesting Rights of the Official Assignee, Hon'ble High Court of Madras – in connection with the properties of the insolvents – Application filed by the Official Assignee – Orders of the Hon'ble High Court of Madras – Reg.

Ref: Order of the Hon'ble High Court of Madras in application Nos 47 to 50 and 52 of 2018 in I.P. No. 8 of 2016 dated.05.03.2018.

ORDER:

1.On the applications filed by the Official Assignee of The Hon'ble High Court of Madras, as cited in the reference; The Hon'ble High Court has ordered the following:-

(a)"The Inspector General of Registration is directed to issue a circular informing all the Sub Registrars within the city that any letter or communication received from the Official Assignee regarding passing of orders of adjudication under the Presidency Towns Insolvency Act 1909, shall be treated with utmost seriousness so that the registering authorities do not register any documents with reference to those properties after the order of adjudication.

(b)The Inspector General of Registration is also required to direct the Sub Registrars to ensure that the requests of the Official Assignee for granting Encumbrance Certificates are also treated with utmost seriousness and on priority. Encumbrance Certificates should be issued at the earliest free of cost to the Official Assignee whenever such request is made by the Official Assignee.

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(c)In cases arising under the Provincial Insolvency Act, the property of the insolvents vest with the Official Receiver of the concerned District. Whenever the Official Receiver/s bring to the notice of the registering authorities about the orders of adjudication, that are made under the said Act, the authorities shall follow the same procedure as indicated above. The Inspector General of Registration, Chennai, is directed to issue Circulars to all the Registrars in the State directing them to make note of the orders of adjudication passed by the District Courts or the concerned sub Courts, so as to enable them to refuse registration of documents executed by the insolvents or their agents, after the orders of adjudication made by the competent Courts."

2. (a) With regard to the above said Court direction, legal position of the Department in adhering to the direction was analysed.

(b) Section 89 of the Registration Act, 1908 provides for filing of copies of certain orders, Certificates and instruments in Book I maintained by the registering officers. Sub -section (1) to (7) contains the exhaustive list of such orders and certificates.

(c)In sub section 7 of Section 89 it has been stipulated as follows:

"Every officer granting any deed or other document purporting to be or evidence the grant or a assignment by the government of land of or any interest in land shall send a copy of such deed or other document to the registering officer within the local limits of whose jurisdiction the whole or any part of the land comprised in such deed or document is situate, and such registering officer shall file the copy in his Book No.1"

(d)Hence the orders of adjudication passed by the Official Assignee under the Presidency Towns Insolvency Act 1909 and orders of adjudication passed by the Official Receiver under the orders of

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District Courts or the concerned sub Courts under the provincial insolvency act 1920 is to treated under the above said section 89(7) of the Registration Act,1908

3. In the light of the above, the registering officers are hereby instructed that any letter or communication received from the Official Assignee regarding passing of orders of adjudication under the Presidency Towns Insolvency Act 1909 and orders of adjudication passed by the Official Receiver under the orders of District Courts or the concerned sub Courts under the Provincial Insolvency Act shall be filed in the memo volume maintained in the Sub Registrar's Office by giving L number as prescribed in S.O. 194 and properly indexed as per the provisions given in section 89(7) of the Registration Act,1908.

4. It is also instructed that the property vested with the Official Assignee/Receiver as the case may be should not be encumbered further.

5. It is also instructed to issue Encumbrance certificates whenever called by the Official Assignee/ Official Receiver/s – at free of cost.

6. The above orders shall be scrupulously followed by all Registering Officers. Receipt of this Circular shall be acknowledged by the Deputy Inspectors General of Registration. Deputy Inspectors General of Registration shall obtain acknowledgement from the Registering Officers through the concerned District Registrars and report the same to the office of the Inspector General of Registration.

26/4/18.

Inspector General of Registration

To
1.All Sub Registrars ,District Registrars &
Deputy Inspectors General of Registration

26.4.2018

copy to:
All officers, O/o Inspector General of Registration
stock file.

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