485

Proceedings of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai-600 028

Present: Thiru.Dinesh Ponraj Oliver, I.A.S.,

D.Dis.No.20904/P1/2020-1 Dated 22.08.2024

Sub : Revision Petition--Document No. P.142/2020, Joint II Sub Registrar Office Chengalpattu –received under section 56(1) of the Indian Stamp Act, 1899 against the order passed by District Registrar, Chengleput- order issued – regarding.

Ref : 1. District Registrar, Chengleput order No.4059/B4/2021 dated 18.8.2021

2. Revision Petition dated 27.2.2022 received from M/s.Aadhar Housing Finance Ltd.,

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ORDER:

The Revision petition 2nd cited has been filed under section 56 (1) of the Indian Stamp Act, 1899 before the Chief Controlling Revenue Authority against the order 1st cited wherein it has been ordered to pay deficit stamp duty of Rs.3,19,60,000/- and penalty of Rs.40,000/- in respect of document No.P.142/2020 on the file of Sub Registrar office, Joint II Chengalpattu.

2) The facts relating to the revision petition and the document in question are as follows:-

Document No.	No.P.142/2020
Office	Sub Registrar office, Joint II Chengalpattu
Date of Execution	08.05.2020
Title	Simple Mortgage Deed.
Executants	Aadhar Housing Finance Limited
Claimant	Beacon Trusteeship Limited.
Amount secured	Rs.300,00,00,000/-

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Stamp Borne by the deed	Rs.40,000/-
Nature of document as determined by the District Registrar	Mortgage under Article 40(b) of Indian Stamp Act, 1899
Deficit stamp duty & penalty determined by the District Registrar	Rs.3,19,60,000/- & Rs.40,000/-

The above document has been executed for the purpose of securing repayment of Debentures to be issued by the M/s.Aadhar Housing Finance Limited (Issuer) by mortgaging the Immovable Property owned by it and for that purpose appointing M/s.Beacon Trusteeship Limited as the Debenture Trustee.

As the above document speaks about details of existing loans sanctioned by various banks, the Sub Registrar impounded the document holding that necessary stamp duty and Registration fees has not been paid for the aforesaid loans and forwarded the document to the District Registrar for further action.

The District Registrar on the premise that number of banks has sanctioned the loans each having value more than 10 Crores, in his proceedings 1st cited determined deficit stamp duty as indicated in table above. Aggrieved over above decision revision petition 2nd cited has been filed.

3) The petitioner through their counsel was heard by the Inspector General of Registration on 04.07.2024 and submitted a written statement. Main contentions put-forth by the Revision petitioner are as follows:

(i) The tabular column shown with regard to other previous loan amounts sanctioned only for intimation to trustees and thereby the value of the amount sanctioned as "in crores" are not covered in the instant document.

(ii) The lists of bank loans details captured in the instant document are not secured by mortgage of any of the immovable property and are only secured by way of Hypothecation of movable assets/receivables of the

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company, at various point of time in different states, as per those loan agreements/deeds.

(iii) This deed of instant mortgage document is only for the debentures issued and not for any other loans taken by the company, in various dates falling in different states.

(iv) Even though the petitioner agreed to pay the deficit Stamp duty and Registration fee fixed as per G.O.(Ms).No.60, Commercial taxes and registration (J1) department dated 16.03.2020 (i.e. maximum ceiling limit on stamp duty and Registration fee Rs.10,00,000/- and Rs.1,00,000/- respectively) in respect of Mortgage deed executed for securing full amount of debentures, the District Registrar erroneously determined deficit stamp duty on the various prior loans availed from 32 banks in different states/periods.

4) Contents of revision petition, connected records received from the District Registrar, arguments advanced on behalf of the petitioner have been carefully examined by me.

Clause 1.12 of the document defines the term "Total Outstandings" as the money incurred by the Company in respect of the Debentures. Clause 9 of the document provides for creation of charge over the property as security for 'Total Outstandings". Clause 12 also asserts the fact that the mortgaged assets shall remain as security for the repayment of the principal amount of the debentures, premium, interest etc., payable under the Debentures.

At this juncture it is noteworthy that aforesaid clauses do not provide for creation of charge over the property in respect of loans/encumbrances listed in the instant document as claimed in the District Registrar order. On the other hand, it could be seen that existing loans have been merely enlisted for the sake of knowledge of the Debenture trustee but without creating any charge over the property in respect of the loans listed in the document.

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488

Hence it becomes clear that the document in question is chargeable to stamp duty under section 40(b) of the Indian Stamp Act, 1899 read with G.O.(Ms).No.60, Commercial taxes and registration (J1) department dated 16.03.2020 (i.e. maximum stamp duty and Registration fee of Rs.10,00,000/- and Rs.1,00,000/- respectively) In the representation 2nd cited and in the written submission furnished during the hearing held on 4.7.2024 the petitioner has undertaken to pay the balance stamp duty and registration fee as per the said G.O.

Accordingly the order 1st cited is hereby set aside and the petitioner is directed to pay deficit stamp duty of Rs.10,00,000/- along with penalty of Rs.10,000/-.

Sd/-Dinesh Ponraj oliver /- 22.08.2024
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

District Registrar (Inspection)

23/8/24

To

1) M/s.Aadhar Housing Finance Ltd.,
Shop No.109 Chella Mall 1st Floor,
Door No 11 & 11A, Sir Thyagaraya Road,
Thyagaraya Nagar, Chennai – 600 017.

2) M/s.Balasubramani & Associates,
Advocates, Shri Venkatesh Bhavan,
5th Floor, Old No.35, New No.71, Armenian Street,
Chennai – 600 001.

3) District Registrar,
Chengalpet
(With original file)

Copy to: Stock File.

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