

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.08.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

Cont. P. No. 1589 of 2015

Hindusthan Infrastructure Projects
and Engineers (P) Ltd.,
(previously Known as RAG Construction
and Real Estate Pvt Ltd.,)
Having its Registered office at No.54,
Richmond Road, Bangalore - 560 025,
Rep., by its Director,
Mr.Kirit Babulal Manek ... Petitioner

Vs

Mrs.Poongudi
The Joint-I Sub Registrar,
Sub Registrar Office,
Coimbatore. ... Respondent

PRAYER : Petition filed under section 11 of the Contempt
of Courts Act, to punish the respondent for willful and
deliberate disobedience of the order of this Court passed
in W.P.No.25556 of 2014, dated 30.03.2015.

For Petitioner : Mr.G.Balasubramanian for
M/s.Poovayya & Co.,
For Respondent : Mr.I.Arokiasamy G.A.,

O R D E R

This Contempt Petition has been filed for willful
disobedience of the order made in W.P.No.25556 of 2014,
dated 30.03.2015.

2. The third respondent has filed a counter affidavit
<https://hcservices.ecourts.gov.in/hcservices/>
stating that the petitioner has not presented the document

for registration. Counter affidavit also proceeds to state the other reasons regarding the refusal of registration in terms of Rule 162 of the Registration Rules.

3. The Writ Petition was filed for issuance of a Writ of Certiorarified Mandamus to quash the order dated 02.07.2014, as ultra vires the provisions of the Registration Act and Rules framed thereunder and direct the third respondent to register the lease deed dated 02.07.2014, executed between the petitioner and the fourth respondent therein in respect of the property. The Writ Petition was heard and this Court allowed the same by order dated 30.03.2015. The operative portion of the order reads as follows:-

9. After hearing the learned counsels appearing on either side and perusing the materials placed on record, it has to be pointed that though both the Circulars have been issued by the Head of the Department, the third respondent being the Registering Authority, is bound to exercise its power in a proper and a reasoned manner. If the third respondent does not exercise its statutory powers in terms of the provisions of the Act and Rules, it would amount to abdicating the exercise of its statutory powers. Therefore, exercise of statutory power of a registering authority cannot be thwarted by Circulars issued by the Inspector General of Registration and the Registering Authority is bound to consider each document on its own merits.

10. Admittedly, in the impugned order, the only reason assigned is with regard to the further amount towards stamp duty payable in respect of an anterior document bearing document No.987/2002. The said claim for additional stamp duty on the said document is the subject matter of challenge in C.M.A.No.1836 of 2005, which is pending before this Court. Therefore, mere pendency of the appeal before this Court cannot be a ground to refuse to register a lease deed especially when the petitioner has taken the demand draft for Rs.13,19,260/-, towards stamp duty and for Rs.20,100/- towards registration fees. Therefore, the reason assigned in the impugned Check Slip is wholly unsustainable and furthermore, a lease transaction cannot be treated to be a charge on the property.

11. In the result, the Writ Petition is allowed, the impugned order is set aside and the third respondent is directed to accept the lease deed for registration after taking note of the stamp duty and registration fees paid and if everything is in order, accept the lease deed for registration, register and release the document subject to the condition that the release of the document is subject to the outcome of C.M.A.No.1836/2005, by making necessary endorsement in the document. The above direction shall be completed within a period of four weeks from the date of receipt of a copy of this order. No costs.

4. It is seen from the above order, a positive

<https://hcservices.ecourts.gov.in/hcservices/>

direction was issued to the respondent to register and

release the lease deed subject to the condition that the release shall abide by the outcome of C.M.A.No.1836 of 2005. Therefore, the respondent is bound to comply with the direction, since the respondent has accepted the order and no Writ Appeal has been preferred. Furthermore, the petitioner denies the allegation that he had never presented the document.

5. Be that as it may, one more opportunity is granted to the petitioner to present the document within a period of 10 days from the date of receipt of a copy of this order. On such presentation, the respondent shall comply with the direction within a period of two weeks thereafter. No costs.

pbn

SD/
DEPUTY REGISTRAR(OS)

//Certified to be true copy//

Dated at Madras this the day of 2015.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.

18/08/07/05/2015

One CC to Government Pleader, SR.10628

One CC to M/s.Poovayya & Co., Advocate, SR.10647

To

Mrs.Poongudi
The Joint-I Sub Registrar,
Sub-Registrar Office,
Coimbatore.