IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

Writ Petition No.14707 of 2015

& M.P.Nos.1 to 3 of 2015

Cosmo Granites Private Limited,
Represented by its Director, Cosmo Square,
No.6, Ranjith Road, Kotturpuram,
Chennai - 600 085 ... Petitioner

Vs.

1. State of Tamil Nadu,
   Rep. By the Secretary to Government,
   Commercial Taxes and Registration Department,
   Secretariat, Fort St. George, Chennai - 600 009
2. The District Registrar,
   No.17 Rajaji Street, Chengalpet - 603 001
3. The Sub-Registrar, No.29 South Mada Street,
   Thiruporur - 603 110 ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the second respondent comprised in his letter bearing Na.Ka.No.4539/2014/A2, dated 06.03.2015, issued by the second respondent and received by the petitioner on 20.03.2015 and quash the same and consequently direct the third respondent to return the original sale deed in favour of the petitioner, dated 10.01.2014, and registered as Document No.439 of 2014 in the office of the third respondent to the petitioner.

For Petitioner : Mr. R.Parthasarathy
For Respondents : Mr. A.Kumar, Spl.G.P.,

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O R D E R

Mr. A.Kumar, learned Special Government Pleader, takes notice for respondents. By consent of the learned counsel for both sides, the writ petition is taken up for final disposal.

2. Heard the learned counsel for both sides.

3. Challenging the order impugned, which was passed under Section 47-A of the Indian Stamp Act, 1899, (hereinafter will be referred to as "the Act"), the present writ petition has been filed by the petitioner.

4. The two fold submission of the learned counsel for the petitioner is that: (i) the impugned order has been passed behind the back of the petitioner, without affording an opportunity to the petitioner; (ii) after registration, the document ought to have been returned as it has got no relevancy to the fixation of the value.

5. The learned Special Government Pleader appearing for the respondents submitted that the value has been fixed, basing reliance upon the relevant materials and if the document is released, then the respondents may not be able to recover the amount from the petitioner.

6. This Court has considered the submissions made by the learned counsel for both sides and perused the materials available on record.

7. A perusal of the order impugned would go to show that there is no indication that the petitioner has been heard. Admittedly, the impugned order has got civil consequences too.

8. In such view of the matter, the impugned order, dated 06.03.2015, is set-aside. Consequently, the second respondent is directed to issue notice to the petitioner, as to why the valuation arrived at would not be finalized and on receipt of the reply from the petitioner, if any, then appropriate final orders will have to be passed by the second respondent.

9. As far as the release of the document-in-question (original sale deed, dated 10.01.2014, and registered as Document No.439 of 2014) is concerned, this Court is of the considered view that fixing the appropriate value is different from with-holding the document. Thus, the third respondent is directed to release the said document-in-question, subject to the condition that may be imposed, including an endorsement from the petitioner that the said document is released, subject to the pending finalization of the proceedings under Section 47-A of the Act, apart from indicating the fact that, a prima facie conclusion has been arrived at with respect to the deficit stamp duty. It is made clear that the second respondent shall complete the enquiry within a period of eight weeks from the date of receipt of a copy of this order, as indicated above, in paragraph 8.

10. This writ petition is disposed of accordingly. No costs. Consequently, the connected MPs are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

srk

To

1. The Secretary to Government,
   State of Tamil Nadu,
   Commercial Taxes and Registration Department,
   Secretariat, Fort St. George, Chennai - 600 009
2. The District Registrar,
   No.17 Rajaji Street, Chengalpet - 603 001
3. The Sub-Registrar, No.29 South Mada Street,
   Thiruporur - 603 110

+1 cc to Mr.Satish Parasaran Advocate sr.45906

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