

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.02.2015

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THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P. No.34062 of 2014

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M.P.No.1 to 3 of 2014

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M.P.No.2 of 2014

Mohammed Jan

...Petitioner

Vs.

1. State of Tamil Nadu
rep. By its Principal Secretary to Government
Commercial Tax and Registration Department
Fort st.George, Chennai 600 009.
2. The Inspector General of Registration
Santhome, Chennai 600 004.
3. The Deputy Inspector General of Registration
Salem.
4. The District Registrar (Administration)
Krishnagiri District.
5. The Sub Registrar
Hosur, Krishnagiri District.

...Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue Writ of certioraified mandamus to call for the records of the respondents 1 and 3 issued in G.O.(D) No.389 Commercial Tax and Registration (M2) Department dated 15.10.2014 and Proceedings NO.3341/A1/13 dated 21.10.2013 quash the same and consequently direct the respondents 2 to 4 to renew the petitioner's document writers licence bearing No.A/86/95/KSG with effect from 31.12.2013, within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar
For Respondent : Mr.S.Gunasekaran
Government Advocate

O R D E R

By consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2.Heard Mr.R.Bharath Kumar, learned Counsel appearing for the petitioner and Mr.S.Gunasekaran, learned Government Advocate appearing for respondents.

3.The petitioner has filed this Writ Petition challenging the order passed by the first respondent in G.O.(D) No.389 Commercial Tax and Registration (M2) Department dated 15.10.2014, confirming the order passed by the third respondent dated 21.10.2013 and to direct the respondents 2 to 4 to renew his Document Writer's Licence.

4.Though the order passed by the third respondent has elaborately set out the facts, the gist of the allegations against the petitioner is that he was the Document Writer in respect of three documents which were gift deeds executed in favour of the local body dated 15.3.1993 and 15.07.1993 in Document Nos.1079/1993, 3121/1993 and 3125 of 1993 respectively and therefore the third respondent while recommending for initiation of a criminal case against the petitioner, temporarily suspended his Document Writer Licence.

5.The learned counsel for the petitioner made elaborate submissions on the factual aspects and submitted that Rule 16 does not empower the authority to suspend the petitioner's Document Writer Licence for the reasons set out. On facts, the learned counsel would submit that the petitioner was not the Document Writer in respect of those three documents and those three documents were prepared and presented for Registration by two document writers viz. A.M.Chandrappa and S.Jayanthi. The petitioner being aggrieved by the order passed by the third respondent preferred an appeal to the first respondent, which has been rejected by order dated 15.10.2014 and challenging the aforesaid two orders, the petitioner is before this Court.

6.The short facts which are necessary for the disposal of the writ petition is that the petitioner has purchased the property vide sale deed dated 27.12.1990, registered as Document No.3/1990. The petitioner would state that between 1992 - 1994, he sold 52 cents out of the total extent to various third parties. The remaining extent of properties retained by the petitioner was 82 cents and that was said to have been settled by the petitioner in favour of this brother Dhadhabai vide settlement deed dated 29.8.2011. Now the reason for initiating action against the petitioner is that he sold the properties belonging to the Government which are subject matter of those three gift deeds and that the petitioner has prepared those three gift deeds.

7.The case of the petitioner is that the petitioner's vendor had executed a power of attorney in favour of one K.Aslam on 28.06.1989 vide document No. 310 of 1989. After the execution of the power of attorney, the original owner sold the property to the petitioner vide sale deed dated 27.12.1990. It appears that thereafter, the power of attorney agent has executed three gift deeds. Further more, the petitioner would state that he was not the Document Writer who prepared those three gift deeds and that he was not having Document Writer's licence at that point of time.

8.Though the above contentions have been raised before the first respondent and requested for personal hearing, the first respondent has not considered the same and the order has been confirmed without taking note of the grounds raised by the petitioner. Hence this Court is of the view that the matter requires to be considered by the appellate authority.

9.Accordingly, the Writ Petition is partly allowed and the order dated 15.10.2014, is set aside and the matter is remanded to the first respondent for fresh consideration. The first respondent shall afford an opportunity of personal hearing to the petitioner and the petitioner is entitled to make written submissions and after considering all the aspects, the first respondent shall consider as to whether the document writer's licence should still continue to be kept under suspension, moreso, since no action has been taken to lodge any criminal case till date though such recommendation was made by the third respondent. The above direction has to be complied within a period of three months from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is partly allowed. It is made clear that the renewal application shall be kept pending

and the same shall abide by the orders to be passed by the first respondent as ordered supra. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. Principal Secretary to Government
State of Tamil Nadu
Commercial Tax and Registration Department
Fort st.George, Chennai 600 009.
2. The Inspector General of Registration
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3. The Deputy Inspector General of Registration
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4. The District Registrar (Administration)
Krishnagiri District.
5. The Sub Registrar
Hosur, Krishnagiri District.

1 CC to Mr.R.Bharath Kumar, Advocate SR.No. 9701

W.P. No.34062 of 2014
and M.P.No.1 to 3 of 2014

KK (CO)
PSI (10.03.2015)

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