IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.03.2015

CORAM

THE HON'BLE MR.JUSTICE V.RAMASUBRAMANIAN
AND
THE HON'BLE MR.JUSTICE P.R.SHIVAKUMAR

W.A.No.2403 of 2013 and M.P.No.1 of 2013

T.Sundaramurthy ...Appellant/Petitioner

Versus

1. The Secretary to Government,
   Commercial Taxes and Registration
   Department, Secretariat,
   Chennai - 600 009.

2. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028. ...Respondents/Respondents

Writ Appeal under Clause 15 of Letters Patent against the order passed by the Hon'ble Mr.Justice N.Kirubakaran in W.P.No.26951 of 2013 dated 27.09.2013.

W.P.No.26951 of 2013:

This writ petition has been filed under Article 226 of the Constitution of India seeking for a writ of Certiorari calling for the records of the second respondent, leading to issue of charge memo of the 2nd respondent dated 19.09.2013 made in Memo No.42359/V3/2013 and quash the same.

For Appellant : Mr.K.Ramu

For Respondents : Mr.R.Ravichandran

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JUDGMENT

(Made by V.Ramasubramanian, J)

Aggrieved by the dismissal of his writ petition challenging a charge memo, the appellant is before us.

2. We have heard Mr.K.Ramu, learned Counsel for the appellant and Mr.R.Ravichandran, learned counsel appearing for the respondents.

3. When the appellant was working as the District Registrar (Administration), a charge memo dated 19.9.20913 was issued under Rule 17(b) of the Tamil Nadu Civil Services (Discipline and Appeal) Rules. The only charge framed against the appellant was that while working as Sub-Registrar (in the level of District Registrar) at Royapuram during the period from 2011 to 2012, he had caused financial loss to the tune of Rs.59,70,901/-, as per the Audit Report relating to the last quarter of the year.

4. Challenging the said charge memo, the appellant filed a writ petition in W.P.No.26951 of 2013. The writ petition was dismissed by a learned Judge by an order dated 27.09.2013. Aggrieved by the said order, he has come up with the above writ appeal.

5. It is relevant to note that the writ petition was dismissed at the stage of admission. Therefore, we directed the learned Additional Government Pleader either to get instructions or to file counter. Today, the learned Additional Government Pleader produced a copy of the written instructions given by the respondents and requested that the same may be treated as their counter and written submission.

6. At the out set, it should be pointed out that the only charge framed against the appellant is that of causing financial loss to the Government in respect of about 70 documents registered during the period from December 2011 to March 2012. All the 70 documents concerned a property which was developed by a builder, into residential flats. In other words, the registration of the documents numbering about 70 whose details are furnished in the Annexure to the charge memo, related to the sale of undivided shares of one and the same property.

7. The fundamental reason as to why the appellant was accused of causing financial loss, was that in all those sale deeds, the agreement holder was made a confirming party and that therefore as per the Circular bearing No.30196/P1/2011-1, dated 13.9.2011, every

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such sale deed amounted to multiple transactions, attracting twice the stamp duty and registration charges.

8. The aforesaid Circular of the Inspector General of Registration dated 13.9.2011, imposing an obligation for payment of double stamp duty on sale deeds where agreement holders were included as confirming parties, was challenged in two writ petitions in W.P.No.13355/2012 and 31274/2014. In one of those writ petitions, a mandamus was sought to release a sale deed without insisting on double stamp duty. That sale deed is one of the 70 items of sale deeds mentioned in the annexure to the charge memo. The two writ petitions were allowed by one of us (V.R.S., J) by an order dated 4.12.2014, pointing out that the mere inclusion of an agreement holder as a confirming party to a sale, cannot be taken to be a conveyance within the meaning of any of the provisions of the Indian Stamps Act, 1899.

9. What is important to note is that those two writ petitions were allowed and the Circular dated 13.9.2011 on the basis of which double stamp duty was demanded, was actually set aside. It is in respect of the very same property that the appellant has now come to face the charge memo.

10. Apart from the above, this Court had held in catena of decisions that without anything more, a mere allegation of causing financial loss against a person exercising the quasi judicial powers cannot hold water. Therefore, on both grounds namely that the only allegation of causing financial loss is not supported by any other allegation and also on the ground that the same was made on the basis of a Circular demanding double stamp duty which has come to be set aside by this Court, we are of the view that the impugned charge memo cannot be sustained.

11. Therefore, the writ appeal is allowed, the order of the learned Judge is set aside and the writ petition stands allowed. There will be no order as to costs. Consequently, M.P.No.1 of 2013 is closed.

Sd/-
Assistant Registrar(CS-V)

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//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
   Commercial Taxes and Registration Department,
   Secretariat, Chennai - 600 009.

2. The Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028.

1 CC to Mr.K.Ramu, Advocate SR.No. 14825

1 CC to the Government Pleader, SR.No. 15051

W.A.No.2403 of 2013

UG (CO)
PSI (24.04.2015)

HIGH COURT OF JUDICATURE MADRAS
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