

HON'BLE SRI JUSTICE S.V.BHATT

WRIT PETITION No. 22122 OF 2013

ORDER:

The petitioner assails proceeding dated 30.07.2012 as illegal, arbitrary and violative of the orders of this Court in C.R.P.Nos.5593 of 2007 and 1417 of 2008.

The issue arises under the Indian Stamp Act, 1989 (for short 'the Act'). The agreements dated 29.08.2001 and 26.12.2002 are impounded by the 1st respondent in exercise of the powers under Section 40 (1) of the Act. The petitioner assails the impugned proceeding primarily on the ground that it is issued in violation of principles of natural justice and contrary to the direction of this Court in C.R.P. Nos.5593 of 2007 and 1417 of 2008 is disobeyed.

The extract of the order dated 15.07.2008 reads as follows:

"At this juncture, the learned counsel for the petitioner in C.R.P.No.5593 of 2007 has stated that though the learned District and Sessions Judge, Nellore, sent the documents for purpose of imposing stamp duty and penalty on the endorsements, the RDO concerned instead of imposing stamp duty and penalty on the endorsements, imposed on the promissory notes themselves. Therefore, the Collector may be directed to consider this aspect also.

In view of the said submission, the Collector concerned shall look into this aspect also while imposing stamp duty and penalty, and if required, give an opportunity of hearing to the parties."

The 1st respondent through impugned proceeding imposed five times penalty on the stamp duty payable on the subject agreements. This Court while setting aside the order of Revenue Divisional Officer

has directed the 1st respondent to consider the issue of impounding the subject documents and determine payment of penal duty under the Act as indicated above. Admittedly, the petitioner is not afforded any opportunity before passing the impugned proceeding. Further the 1st respondent in the reply has stated that the opinion of the Government Pleader, Nellore, was obtained in the matter and the documents are impugned on the strength of the opinion. On the ground that the proceeding impugned in the writ petition is contrary to the direction issued by this Court in C.R.P. Nos.5593 of 2007 and 1417 of 2008 and also that there is no independent consideration on the stamp duty or penalty payable by the petitioner, the impugned proceeding is set aside and the matter is remanded to 1st respondent for fresh disposal by affording reasonable opportunity, within a period of two months from the date of receipt of a copy of this order.

The writ petition is ordered as indicated above. No order as to costs.

Miscellaneous petitions, if any, pending in the writ petition shall stand closed.

S.V. BHATT, J

Date: 13.02.2015

Stp