

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 08.06.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.19146 of 2016

1. M/s.Alliance Business Parks Pvt. Ltd.,
Rep. by its authorized signatory:
Mr.S.Parthasarathi
Plot No.A, Door No.36/1,
Gandhi Mandapam Road
Kotturpuram,
Chennai-85.
 2. M/s.Alliance Projects
Partnership firm
Rep. by its authorized signatory:
Mr.S.Parthasarathi
Plot No.A, Door No.36/1,
Gandhi Mandapam Road
Kotturpuram,
Chennai-8
- ... Petitioners
- Versus
1. The Inspector General of Registration
Department of Registration
No.100, Santhome High Road,
Chennai-28.
 2. The Assistant Inspector General/
District Registrar
Department of Registration
No.9, Jeenis Road, Saidapet, 2nd floor
Chennai-600 015.
 3. The Sub Registrar
Pallavaram
2nd Main Road, New Colony
Chrompet, Chennai-44
- ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the 3rd respondent to release the registered gift deed dated 29.04.2016 bearing Doc.P.No.248 of 2016 on the file of the 3rd respondent.

For Petitioners : Mr.S.Sethuraman
For Respondents : Mr.R.Govindasamy
Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2. The petitioners claim that they are one of the leading builders and promoters of Real Estate in India and it is successfully completed several projects in South India and in connection with the business activities, it had acquired lands in Zamin Pallavaram from the year 2006 and had also consolidated it into sizable piece of land for developing it into a residential complex. The petitioners would further state that after consolidation, they submitted the plan for building approval to the Chennai Metropolitan Development Authority [CMDA] as per the Development Control Regulation framed by CMDA and as per the said Regulation, the land owners are required to gift land for open space for reservation area [OSR] and land for link road portions for public purposes and the said land mentioned for link road has to be transferred by way of Gift Deed in favour of CMDA and the possession has to be handed over under the provision of transfer of the development rights. It is also stated by the petitioners that the Principal Secretary to the Government of Tamil Nadu, vide G.O.Letter No.19192/J1/2008-2 dated 30.12.2009, had informed CMDA that the Gift Deed to be executed in favour of CMDA is exempted from payment of stamp duty and registration fees and the said letter, in turn, placed reliance on G.O.Ms.No.486, Commercial Tax and Registration dated 05.11.1997. The 1st petitioner would state that it had conveyed an extent of 21,916 sq.ft. for the purpose of link road to and in favour of CMDA by Gift Deed dated 29.04.2016 and similarly, their group concern, viz., the 2nd petitioner herein, also conveyed an extent of 19100 sq.ft. towards link road by the same Gift Deed and the CMDA also accepted the same and made an endorsement in the Gift Deed. The grievance expressed by the petitioners is that when the Gift Deed was presented for registration, the 3rd respondent insisted them to pay the stamp duty and registration charges to the tune of Rs.1,31,25,120/- on the ground that the said document have to be treated as an Exchange Deed and accordingly, the stamp duty and registration charges have not been paid.

3. The learned counsel for the petitioners has drawn the attention of this Court to section 33-A of the Indian Stamp Act, as well as to the order dated 12.02.2015 made in

WP.Nos.2106 and 2107 of 2015 [Casa Grande Shelter LLP represented by its Assistant Manager Vs. The Inspector General of Registration, Department of Registration, No.100, Santhome High Road, Chennai 600004] and would submit that this Court, in the above cited decision, considered similar facts and circumstances and concluded that the documents in question are Gift Deeds and once a document is registered, the retention of the same is impermissible and ultimately, concluded that the 3rd respondent therein, viz., the Sub Registrar, Selaiyur, Chennai, retained the document after registration and therefore, directed him to release and return the registered Sale Deed in favour of the petitioner therein and hence, prays for appropriate orders.

4. Per contra, Mr.R.Govindasamy, learned Special Government Pleader who accepts notice on behalf of the respondents 1 to 3 would submit that the 3rd respondent, after going through all the documents, has found that the documents are Exchange Deeds and accordingly, called upon the petitioners to pay the stamp duty and registration charges and prays for dismissal of this writ petition.

5. This Court considered the rival submissions and also perused the materials placed before it.

6. It is the specific case of the petitioners that the documents in the form of Deeds, conveying the lands for the purpose of link road in favour of CMDA are Gift Deeds and therefore, are exempted from payment of stamp duty and registration charges in terms of G.O.Ms.No.486, Commercial Tax and Registration Department, dated 05.11.1997, wherein the Government had exempted the payment of stamp duty while executing the document in favour of the Corporation of Chennai. It is also the submission of the learned counsel for the petitioners that since the documents are executed in favour of a statutory authority, the above cited Government Order is fully applicable to the case on hand and ultimately, the open space reservation area is to be utilised for the public and therefore, the stamp duty and the registration charges cannot be insisted and prays for allowing of the writ petition.

7. In the light of the stand taken by the respective parties, this Court directs the 3rd respondent to consider and dispose of the petitioners' representation dated 01.06.2016 on merits and in accordance with law, after taking note of the order dated 12.02.2015 made in WP.Nos.2106 and 2017/2015 and also provide an opportunity of personal hearing to the authorised representatives of the petitioners and pass orders within a period of eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

8. The writ petition is disposed of with the above direction. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

AP

To

1. The Inspector General of Registration
Department of Registration
No.100, Santhome High Road,
Chennai-28.
2. The Assistant Inspector General/
District Registrar,
Department of Registration
No.9, Jeenisi Road, Saidapet, 2nd floor
Chennai-600 015.
3. The Sub Registrar
Pallavaram
2nd Main Road, New Colony
Chrompet, Chennai-44.

+2cc's to Mr.S.Sethuraman, Advocate, S.R.Nos.31124 & 30835
+1cc to the Government Pleader, S.R.No.30892

W.P.No.19146 of 2016

NR(CO)
CA(14/06/2016)

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