

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2016

CORAM

THE HON'BLE MR. JUSTICE M.M.SUNDRESH

W.P. No.10807 of 2013

M/s. K.R.P. Industries
Partnership Firm, Rep by its
Managing Partner - P.Raju,
S/o. Paneerselvam, No. 12/3 A,
Athipet Main Road, Ambattur Industrial Estate,
Chennai. Petitioner

Vs.

1. The Inspector of General Registration
Department of Registration,
Santhome High Road, Chennai.

2. The District Revenue Officer,
5th Floor, No. 32, Rajaji Salai,
Collectorate Chennai-600 001

3. Collectorate
Sub Registrar,
Ambattur Sub-Registrar Office,
Ambattur
Chennai. Respondents

P R A Y E R: Petition filed under Article 226 of The
Constitution of India praying to issue a writ of certiorari
calling for the entire records relating to the impugned Circular
No. 30196/P1/2011-1 dated 13.09.2011 issued by the 1st respondent
and the consequential impugned notice in Form No. 1 issued by
the 2nd respondent and quash the same.

For Petitioner : Mr.R.Vasudevan.
For Respondents : Mr.V.Subbiah,
Special Government Pleader

O R D E R

From the records, it is seen that originally there was a
partnership firm consisting of two persons namely, the mother
and son. It appears that the mother died on 22.08.2007.

Thereafter, the petitioner has sought to purchase the property which belonged to the partnership firm from the surviving partner, namely the son. The petitioner insisted that the other legal heirs of the deceased partner will also have to be included in the said purchase. Accordingly, the legal heirs of the deceased mother stood as confirming parties. In Form No. 1 notice, an objection has been raised placing reliance upon the impugned circular dated 13.09.2011, which has been quashed by this Court in the decision of Pratishtha Associates Vs State of Tamil Nadu (2015 (2) CTC 548) and confirmed in 2015 (6) CTC 455 by the Division Bench of this High Court.

2. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents. The learned counsel for the petitioner submitted that the property is one and the same. The petitioner is not challenging the deficit stamp duty paid on the valuation of the property, which is a separate matter. His contention is that the sale cannot be treated as two different sales, i.e. one at the instance of the surviving partner and another at the instance of the confirming parties.

3. This Court finds force in the submission made by the learned counsel for the petitioner. As the property is one and the same it is well open to the respondents to fix the market value of the said property and then demand the deficit stamp duty. It may not be termed as two different sales, i.e. one at the instance of the vendor and the petitioner and another at the instance of the confirming parties for the very same property. Therefore, reliance made by the respondent No. 2 on the circular dated 13.09.2011 is totally misplaced. It is not as if a fraud is likely to be committed by the inclusion of the confirming parties who are the legal heirs of the deceased erstwhile partner.

4. Considering the above, the present writ petition is disposed of by clarifying that the respondent No. 2 can proceed with the matter by fixing the deficit stamp duty on the valuation of the property concerned. However, the said authority cannot hold that there are two sale deeds involved by the intervention of the confirming parties. Appropriate orders will have to be passed by the respondent No. 2 within a period of eight weeks from the date of receipt of copy of this order, after affording an opportunity of hearing to the petitioner.

5. With the above direction, the writ petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

-s/d-
Assistant Registrar (CSII)
dt:27/01/2016

True Copy

Sub-Assistant Registrar

rms

To

1. The Inspector of General Registration
Department of Registration,
Santhome High Road, Chennai.

2. The District Revenue Officer,
5th Floor, No. 32, Rajaji Salai,
Collectorate Chennai-600 001

3. Collectorate
Sub Registrar,
Ambattur Sub-Registrar Office, Chennai.
Ambattur

+1 cc to Mr.K.Prem Kumar Advocate sr.1589
+1 cc to Government Pleader sr.1384

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