

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2016

CORAM:

THE HON 'BLE MR.JUSTICE M.SATHYANARAYANAN

Writ Petition No.19924 of 2016
and W.M.P.No.17179 of 2016

VA Tech Wabag Limited,
Represented by its Chief Manager - Legal,
Mr. Parag Chitnis,
Having its Registered Office at 'Wabag House',
No.17, 200 Feet Thoraipakkam - Pallavaram
Main Road, Sunnabukolathur,
Chennai - 600 117 ... Petitioner

Versus

1. The Inspector General of Registration,
No.100 Santhome High Road,
Chennai - 600 028
2. The Sub Registrar - Pallavaram,
No.4, 2nd Main Road, New Colony,
Opposite Railway Station, Pallavaram,
Chennai - 600 043 ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of Mandamus, directing the second respondent to register the Consortium Agreement, a copy of which is filed herewith, upon payment of the appropriate stamp duty of Rs.20/-, under article 5 (j) of Schedule I of the Indian Stamp Act, and the appropriate registration fees of Rs.100/- under Item 1 (g) of the Table of Fees prepared under Section 78 of the Registration Act.

For Petitioner : Mr. Ramakrishnan Viraraghavan
For Respondents : Mr. R.Govindasamy, Spl.G.P.,

ORDER

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

2. In pursuant to the award of the contract by Chennai Metropolitan Water Supply and Sewerage Board (CMWSSB), a consortium agreement came to be entered into between the petitioner and the said entity and the same was sought to be registered and sent for registration before the second

respondent. The second respondent has stated that the said agreement is an agreement for building construction under Article 5 (i) of Schedule-I of the Indian Stamp Act, 1889, overlooking the fact that such a kind of agreement falls within the ambit of Article 5 (j) of Schedule-I of the said Act and therefore, the petitioner is liable to pay stamp duty of only Rs.20/-.

3. Heard the submissions of Mr.Ramakrishnan Viraraghavan, learned counsel, who drawn the attention of this Court to the Indian Stamp Act, 1889, and would submit that, by any stretch of imagination, the consortium agreement cannot be treated as an agreement for construction of the building or super-structure and the second respondent is under the misconception of law and therefore, prays for appropriate orders.

4. Per contra, Mr.Govindasamy, learned Special Government Pleader, who accepts notice on behalf of the respondents, on written instructions, would submit that, if there is any clause stating that any construction is made, then the same should be treated as construction agreement under Article 5 (i) of the Act and therefore, 1% stamp duty and 1% fees should be levied.

5. This Court has carefully considered the rival submissions made by the learned counsel for both sides and perused the materials available on record.

6. A perusal of the materials placed before this Court, in the form of typed set of documents, more particularly, the consortium agreement would disclose that it is entirely different from the construction agreement and thus, this Court is prima facie of the view that the said agreement does not involve in any construction of the building or super-structure like flats etc.,

7. In the light of the facts and circumstances, this Court directs the second respondent to register the consortium agreement under Article 5 (j) of Schedule-I of the Indian Stamp Act, 1889, by accepting necessary stamp duty, so as to enable the petitioner to carry on the work in terms of the said agreement.

8. It is submitted by the learned counsel for the petitioner that the extension of time granted by CMWSSB for producing the registered Consortium Agreement expires on 24.06.2016 and therefore, the second respondent shall make every endeavour to register the said document under the above said provision and release the same, after making necessary endorsement, within a period of one week from the date of presentation.

9. The writ petition is disposed of accordingly. No costs. Consequently, the connected WMP is closed.

srk

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

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

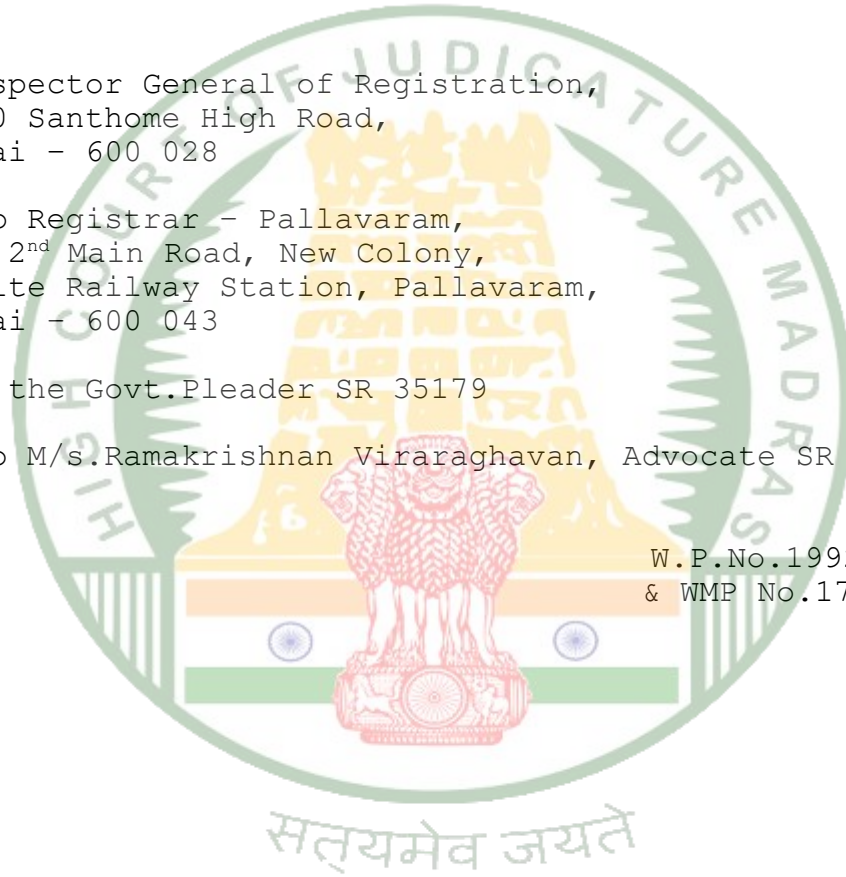
2. The Sub Registrar - Pallavaram,
No.4, 2nd Main Road, New Colony,
Opposite Railway Station, Pallavaram,
Chennai - 600 043

+ 1 cc to the Govt.Pleader SR 35179

+ 2 ccs to M/s.Ramakrishnan Viraraghavan, Advocate SR 35067

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