IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.24136/2016 & WMP.No.20664/2016

Aditi Promoters India Pvt. Ltd
rep.by its Director Mr.E.Saravanan
No.1/43, Seelakkampatti Village
Seelakkampatti Post, Pollachi Taluk,
Coimbatore District. .. Petitioner

Versus

The Sub Registrar,
Pollachi, Registration Department
104, Taluk Office Campus
Coimbatore Road, Pollachi 642001
Coimbatore District. .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, seeking for a writ of mandamus directing the respondent to register Gift Deed of the petitioner dated 03.06.2016 bearing pending Document No.55/2016 in the office of the respondent without insisting on payment of additional stamp duty / registration fee above Rs.100/- and release the document expeditiously to the petitioner.

For Petitioner : Mr.R.Muthukumaraswamy, SC
for A.Jenasenan
For Respondent : Mr.P.Sanjay Gandhi, AGP

ORDER

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

2 The petitioner company had purchased a land admeasuring to an extent of 4.89 acres of vacant lands in survey No.2179/3 in Zameen Uthukkuli Village at Pollachi Taluk, Coimbatore District, through a registered Sale Deed bearing Document No.6678/2015 dated 20.08.2015, registered on the file of the office of the respondent and claims to be in possession and enjoyment of the same. It is further stated that they sold an extent of 1.10 acres of land in favour of one Arokiasamy, through a registered Sale Deed bearing Document No.10176/2015 dated 09.12.2015 and continues to be in

possession and enjoyment of the remaining extent of the land. The petitioner, in order to develop the remaining lands as a layout, got necessary approval and as per the directions of the authority, they have to execute a Gift Deed and accordingly, the petitioner had executed the same and presented the document for registration during April 2015, on the file of the Sub Registrar, Pollachi. The said official, at the time of presentation, insisted payment of stamp duty and it was explained to him that it was executed in favour of the local body and in the light of G.O.[Ms] No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997, payment of stamp duty is exempted in respect of Gift Deeds of Settlement Deeds in respect of donation of lands by the citizens to the local authority or in favour of the Government and as such, insistence of payment of stamp duty is not correct. However, the Gift Deed presented for registration has been impounded. In this regard, the petitioner has submitted a representation dated 06.06.2016 to the Sub Registrar, Pollachi and since no orders have been passed, the petitioner came forward to file this writ petition.

3 Mr.R.Muthukumaraswamy, learned Senior Counsel appearing for the petitioner assisted by Mr.A.Jenasenan, learned Advocate, has invited the attention of this Court to G.O.Ms.No.117, Commercial Tax and Religious Endowments Department, dated 27.01.1982 and would submit that in the light of the said Government Order, the petitioner is liable to pay only a sum of Rs.100/- towards the stamp duty and therefore, insistence of stamp duty as demanded by the Sub Registrar, Pollachi, is legally unsustainable and prays for appropriate orders.

4 Heard the submissions of Mr.P.Sanjay Gandhi, learned Additional Government Pleader who accepts notice on behalf of the respondent.

5 It is relevant to extract G.O.Ms.No.117, Commercial Tax and Religious Endowments Department, dated 27.01.1982:-

> "G.O.Ms.No.117, Commercial Tax and Religious Endowments, 27th January 1982 [Thai 14, Thunmathi, Thiruvalluvar Aandu-2013]
>
> No.II[2]CTRE/784/82- In exercise of the powers conferred by clause [a] of sub-seciton [1] of section 9 of the Indian Stamp Act, 1899 [Central Act 11 of 1899], the Governor of Tamil Nadu hereby reduces the stamp duty chargeable under the said Act in respect of gift deeds to be executed by the owners of layouts handing over layout roads in the areas comprised in the Panchayat Villages, Panchayat Towns and Panchayat Townshsips

constituted under the Tamil Nadu Panchayats Act, 1958 [Tamil Nadu Act XXXV of 1968] and Municipal Townships constituted under the Tamil Nadu District Municipalities Act, 1920 [Tamil Nadu Act V of 1920] to the extent the stamp duty is chargeable on the gift deeds to a nominal value of Rs.100 [rupees hundred only]."

6 In the light of the above cited Government Order, this Court is of the view that the detention of the documents without registration by the respondent is not in accordance with law.

7 In the result, the writ petition is disposed of and the respondent is directed to consider the scope and purport of G.O.Ms.NO.117, Commercial Tax and Religious Endowments Department, dated 27.01.1982 and take appropriate action on the representation of the petitioner dated 06.06.2016 and communicate the decision taken to the petitioner within a period of two weeks from the date of receipt of a copy of this order.

8 The writ petition is disposed of with the above direction. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

AP

To
The Sub Registrar,
Pollachi, Registration Department
104, Taluk Office Campus
Coimbatore Road, Pollachi 642001
Coimbatore District.

+ 1 CC to Mr.A.Jenasenan, Advocate SRNO 398929

+ 1 CC to Government Pleader, SR NO 39829

W.P.No.24136/2016

ALA[CO]
GP/2.8.