IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 1.11.2016

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Review Application No.113 of 2016
and
C.M.P.No.17004 of 2016 in
W.A.No.1000 of 2016

M/s.Siva Industries and Holdings Ltd
5th Floor Block-1 Beliciaa Towers
Door No.71/C M.R.C. Nagar Main Road
Raja Annamalaipuram Chennai-600 028 Petitioner

vs.

1 The District Registrar
(A.I.G.Cadre)-Chennai Central
Bharathi Salai, Chennai 600 018

2 The District Revenue Officer-Stamps
Chennai-600 002

3 Joint Sub Registrar
Chennai Central Bharathi Salai
Chennai-600 018

4 Inspector General of Registration
No.100 Santhome High Road
Chennai-600 028

5 M/s.Lebara Hotels Pvt Ltd
formerly M/s.LBR Leisure &
Hospitality Services Pvt Ltd
Old No.228 New No.302
F.M.House Anna Salai
Teynampet Chennai-600 018 Respondents

Prayer: Review Application filed under Order 47 Rule 1 read with section 114 of the Code of Civil Procedure seeking to review the judgment dated 31.8.2016 made in W.A.No.1000 of 2016 on the file of this court.

For petitioners	: Mr.T.Mohan for Mr.H.Prosper
For R1 to R4	: Mr.K.Venkataraman, Additional Advocate General assisted by Mrs.A.Srijayanthi, Special Govt. Pleader
For R5	: Mr.P.H.Arvind Pandian, Senior Counsel for M/s.Fox Mandal and Associates

COMMON ORDER

(Order of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the review petitioner, Mr.K.Venkataramani, Additional Advocate General for respondents 1 to 4 and Mr.P.H.Arvind Pandian, learned Senior Counsel appearing for the fifth respondent for some time.

2. It appears that so far as the transaction with respect to purchase of a property from the Review Petitioner by the fifth respondent herein, whatever stamp duty demanded has been paid by the fifth respondent herein and such a transaction had taken place recently. Much prior to that, it appears that the review petitioner, being the erstwhile owner of the property in question, who is shown to have purchased the undivided interest in the landed property from their vendor, entered into a joint venture agreement with a Builder, even much prior to the purchase of the property, based on the sale agreement at the time of purchasing of property and they are shown to have paid not only a sum of

Rs.1,43,00,000/- and odd towards stamp duty for the landed property but also a sum of Rs.1,10,00,000/- and odd so far as the superstructure is concerned, which has been developed/built up later, but, before sale of the same in favour of the third party purchaser, who is the fifth respondent herein. Therefore, according to the review petitioner, they have paid a sum of Rs.2,53,00,000/- and odd much earlier. Such being the case, it appears that the sale deed submitted by the writ petitioner/first appellant herein was withheld by the registering authority on the ground that during the course of audit objection, it was found that there was revenue loss to the tune of Rs.1,43,00,000/- as deficit stamp duty and Rs.10,99,975/- as deficit registration fees. Considering the facts and circumstances of the case, while disposing of the writ appeal, we directed for release of the document and for recovery of deficit stamp duty from the erstwhile vendor viz., the review petitioner and the third party purchaser was directed to extend their co-operation in this regard.

3. Now, the review petitioner would contend that they have already paid a sum of Rs.2,53,00,000/- and odd and the present claim of deficit stamp duty on the ground of audit objection much later in point of time is not proper.

4. The main contention of the review petitioner is that they were not even served with any show cause notice for recovery of the deficit stamp duty and they had paid the stamp duty as undertaken by them in the writ petition while it was disposed and they being a party respondent in the writ

petition, got the show cause notice among the papers served on them in the writ appeal and prior to that they were not served with any show cause notice.

5. Be that as it may, now the show cause notice finds place at page 94 of the typed set of papers in the present review petition and therefore, the said document is now very much available with them though they dispute that such a letter was not served on him which is also subject matter of verification. Further, the claim of deficit stamp duty is made only on the basis of audit objection, which cannot be lightly dealt with. Therefore, we are of the view that it is for the review petitioner to go before the District Registrar and to have a say in the matter and to pay the arrears of amount as assessed by the District Registrar (Administration Department) or else, they are at liberty to approach any other forum as available under law.

6. In this regard, the review petitioner is granted two weeks time, from the date of receipt of copy of this order, to file their objections before the District Registrar, who shall pass necessary orders after affording opportunity to the review petitioner, within a period of one month thereafter. But, however, the review petitioner shall pay the deficit stamp duty demanded or to have recourse by way of approaching the appropriate forum. With that view, the review petition is disposed of. It is also made clear that the document, which is withheld by the Department, shall be released to the third party purchaser viz., the fifth respondent herein, since

it appears that the third party purchaser had paid the stamp duty for the present transaction, but, subject to filing of an undertaking to the extent that they would extend their co-operation till the proceedings before the District Registrar to be raised by the erstwhile vendor is concluded. The miscellaneous petition filed seeking modification of the order passed by this court in the writ appeal is also disposed of accordingly. No costs.

(H.G.R.,J.)(M.V.M.,J.)

Index:Yes/No 1.11.2016
Internet:Yes/No
ssk.

To

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