

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

W.A. No.450 of 2016 and C.M.P. No.6390 of 2016

1 State of Tamil Nadu
represented by the Secretary to Government
Commercial Taxes and Religious Endowments Department
Fort St. George, Secretariat
Chennai 600 009

2 The Inspector General of Registration
Santhome High Road
Chennai 600 004

3 The Sub-Registrar
Sub-Registration office of Konnur
Chennai 600 049

Appellants/
Respondents

Vs.

1 Tamil Nadu Brick Industries
represented by its Managing Partner
N.D. Ramamurthy
47, Mangali Nagar I Street
Arumbakkam
Chennai 600 106

2 N.D. Ramamurthy
3 D. Radha Bai
4 R. Suresh Babu
5 V. Saraswathi Ammal
6 N.S. Damodaran
7 D. Maheshwaran
8 Dr. M. Samundeswari

Respondents

(represented by their Power of Attorney Holder
E.S. Senthilvel
C/o Brigade Enterprises Ltd.
26/1, Dr. Rajkumar Road
Kalleswaram, Rajaji Nagar
Bangalore 560 055)

Writ Appeal preferred under Clause 15 of the Letters Patent against the order dated 29.02.2016 made in W.P. No.40638 of 2015.

Prayer in W.P.No.40638 of 2015:- Writ petition is filed under Article 226 of the constitution of India praying for issuance of writ of certiorarified mandamus Calling for the records of the third respondent comprised in the extract of the Register of Impounded Documents bearing Serial Number 4/2015 in relation to Document No. P.No.135/2015 and quash the same and consequently direct the third Respondent to register and return the Gift Deed dated 28.10.2015 executed by the Petitioners in favour of the CMDA to the petitioners.

For appellants Mrs. A. Srijayanthi
Special Government Pleader

JUDGMENT

(delivered by SATISH K. AGNIHOTRI, J.)

The challenge in this intra-Court appeal is to the order dated 29 February 2016 passed in W.P.No.40638 of 2015.

2 For the sake of brevity and clarity, the parties are referred to as per their rank in the instant intra-Court appeal.

3 The respondents preferred the instant writ petition being W.P.No.40638 of 2015, assailing the "Extract from the Register of Impounded Documents" dated 09 November 2015 of the third appellant, whereunder, the gift deed in question, presented by the respondents for registration, was impounded on the ground of deficit stamp duty and for a direction to the third appellant to register and return to them, the gift deed dated 28 October 2015 executed by them in favour of Chennai Metropolitan Development Authority.

4 The learned Single Judge, based on the submission of the learned counsel for the respondents that he does not press for quashment of the impugned order and it would suffice if a direction is issued to the third appellant to return the document to the respondents, relying on a judgment of this Court in A.A. Thameem Ansari and another vs. The Sub-Registrar, South Joint, Saidapet, Chennai¹, directed the third appellant to release and return the impounded document to the respondents with an endorsement that the release of the said document would be subject to further proceedings that may be initiated under the provisions of the Indian Stamp Act, 1899, read with the Registration Act, 1908.

1 2015 SCC Online Mad 6199

5 The learned Single Judge had directed release and return of the impounded document to the respondents, subject to the aforestated condition. We have examined the said condition. The said condition provides sufficient safeguard to ensure recovery of fee, if any, as and when occasion arises. In such view of the matter, we are not inclined to interfere with the order sought to be impugned in this intra-Court appeal.

Accordingly, this intra-Court appeal is dismissed. However, there shall be a charge over the property in question, till the proceedings initiated under Section 47-A of the Indian Stamp Act is complete. No costs. Connected W.M.P. is dismissed.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

cad

To

- 1 The Secretary to Government
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2 ccs to Government Pleader, Sr. 23466

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