IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL

AND

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

W.A.No.472 of 2016
and
C.M.P. No.6561 of 2016

1.State of Tamil Nadu rep. by
the Secretary to Government,
Commercial Taxes and Registration
Department, Secretariat,
Fort St. George, Chennai - 9.

2.The District Registrar,
No.17, Rajaji Street,
Chengalpet - 603 001.

3.The Sub Registrar,
No.29, South Mada Street,
Thiruporur - 603 110. .. Appellants/Respondents

Vs.

Cosmo Granites Private Limited
rep. by its Director,
Cosmo Square,
No.6, Ranjith Road,
Kotturpuram, Chennai - 85. .. Respondents/Petitioners

Writ Appeal filed under Clause 15 of the Letters Patent against the Order dated 27.08.2015 in W.P.No.14707 of 2015 on the file of this Court.

Prayer:Writ Petition filed under Article 226 of the Constitution of India Praying for the issuance of a Writ of Certiorarified Mandamus to call for the records of the Second respondent Comprised in his letter bearing No. Na.Ka. 4539/2014/A2 dated 06.03.2015 issued by the second respondent and received by the Petitioner on 20.03.2015 and quash the same and consequently direct the third respondent to return the original sale deed in favour of the petitioner dated 10.01.2014 and registered as Document No.439 of 2014 in the office of the Third Respondent to the petitioner.

For Appellants : Ms.A.Srijayanthi,
Spl. Govt. Pleader

JUDGMENT

(Judgment of the Court was delivered by M.VENUGOPAL, J.)

To avoid an avoidable delay, notice to the respondent is dispensed with.

2.The Appellants/Respondents have preferred the present intra Court Writ Appeal as against the order dated 27.08.2015 in W.P.No.14707 of 2015 passed by the learned single Judge.

3.The learned single Judge, while passing the impugned order in W.P.No.14707 of 2015 (filed by the Respondent/Writ Petitioner on 27.08.2015) at paragraphs 6 to 9, had observed the following and consequently disposed of the writ petition:

> "6.This Court has considered the submissions made by the learned counsel for both sides and perused the materials available on record.
>
> 7.A perusal of the order impugned order would go to show that there is no indication that the petitioner has been heard. Admittedly, the impugned order has got civil consequences too.
>
> 8.In such view of the matter, the impugned order, dated 06.03.2015, is set aside. Consequently, the second respondent is directed to issue notice to the petitioner, as to why the valuation arrived at would not be finalized and on receipt of the reply from the petitioner, if any, then appropriate final orders will have to be passed by the second respondent.
>
> 9.As far as the release of the document-in-question (original sale deed, dated 10.01.2014, and registered as Document No.439 of 2014) is concerned, this Court is of the considered view that fixing the appropriate value is different from with-holding the document. Thus, the third respondent is directed to release the said document in question, subject to the pending

finalization of the proceedings under Section 47-A of the Act, apart from indicating the fact that, a prima facie conclusion has been arrived at with respect to the deficit stamp duty. It is made clear that the second respondent shall complete the enquiry within a period of eight weeks from the date of receipt of a copy of this order, as indicated above, in paragraph 8."

4.Learned Special Government Pleader for the appellants submits that the order of the learned single Judge in directing the third respondent/third appellant to release the related document in question after making an endorsement to the effect that the document is released subject to the pending finalisation of the proceedings under Section 47-A of the Act apart from indicating the fact that the prima facie conclusion has been arrived at with respect to the deficit stamp duty is contrary to law, facts and circumstances of the case.

5.Yet another plea taken on behalf of the appellants that it was not brought to the notice of the learned single Judge that a conjoint reading of the provisions contained in Section 47A (1) of the Indian Stamp Act together with Rule 7(4) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, mandate that the Collector has to add a certificate on the original instrument after collecting the deficit stamp duty and interest, if any payable, under Section 47A of the Act.

6.Finally, the learned Special Government Pleader projects a legal argument that there is no provision available in the Indian Stamp Act, 1889 enabling the Court to return a document pending action 47A (1) of the Act. In short, the Act does not provide for such midway return.

7.This Court has heard the learned Special Government Pleader appearing for the appellants and noticed her contentions.

8.On a careful perusal of the impugned order dated 27.08.2015 in W.P.No.14707 of 2015, passed by the learned single Judge, this Court is of the considered view that the learned single Judge had rightly observed in the order at paragraph 7 to the effect that on perusal of the impugned order would go to show that there is no indication that the petitioner has been heard. Admittedly, the impugned order has got civil consequences too. Suffice it for this Court to point out that this Court, on going through the impugned order passed by the learned single Judge in the writ petition, is of the considered view that the learned single Judge, in the order, had only directed the third respondent/third appellant to release the said document in question subject to the condition that may be imposed, including an endorsement from the respondent/writ petitioner that the said document is released subject to pending finalisation of the proceedings under Section 47A of the Act etc., in short, the third respondent/third appellant was directed to complete the enquiry within a period of eight weeks from the date of receipt of a copy of the order. The said order, in the considered opinion of this Court, does not suffer from any material irregularity, legal infirmity or patent illegality in the eye of law. Per contra, the same is free from any flaw. Resultantly, the writ appeal fails.

9.In fine, the writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1.State of Tamil Nadu,
Rep. By the Secretary to Government,
Commercial Taxes and Registration Department,
Secretariat,
Fort.St., Georege, Chennai-9.

2.The District Registrar,
No.17 Rajaji Street,
Chengalpet-603 001.

3.The Sub-Registrar,
No.29 South Mada street,
Thiruporur-603 110.

+2cc to M/S.Satish Parasaran, Advocate sr.23703, 24100
+1cc to The Government Pleader sr.24228

W.A.No.472 of 2016

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srg 02/05/2016