

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:29.11.2016

CORAM:

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

W.P.No.33928 of 2016 &

W.M.P.Nos.29289 to 29291 of 2016

Great Lakes Multi-State Co-operative

Housing Society Limited,

Rep. by its Chief Executive Officer,

S.Sakthivel,

No.76/190, South Car Street,

Srivilliputhur - 626 125,

Virudhunagar District.

.. Petitioner

Vs.

1. The State of Tamil Nadu
Rep. by its Secretary to the Government,
Commercial Taxes and Registration Department,
Fort St. George, Chennai - 600 009.

2. The Inspector General of Registration,
No.100, Santhome High Road,
Foreshore Estate, Chennai - 600 004.

3. The District Revenue Officer (Stamps),
O/o. The District Revenue Office,
Collectorate of Chennai, 5th Floor,
M.Singaravelar Maligai,
No.62, Rajaji Salai, Chennai - 600 001.

4. The Joint-I Sub Registrar,
Tenkasi,
No.57, Ralway feeder Road,
Near New Busstand, Old RTO Complex,
Tenkasi - 627 811.

5. The Sub Registrar,
O/o.Sub Registrar,
Alandur, Chennai - 16.

6. S.P.Velayutham

7. N.Pankajam

Rep. by her Power of Attorney Agent

Subburam

(R.6 & 7 impleaded as per Order dated 25.10.2016

by BRJ in WMP Nos.32046 & of 2016 WMP.32090/16

in W.P.No.33988 of 2016)

Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records relating to the communication made in Tha.Ka.No.3623/13/2010 dated 03.07.2013 issued by the third respondent in pursuant to the demand dated 07.01.2013 made by the fourth respondent and consequential order made in L.Dis.No.30767/C2/2015 dated 11.08.2015 issued by the second respondent and quash the same.

For Petitioner : Mr.G.Ethirajulu
for Om Sai Ram

For Respondents: Mr. A.N.Thambi Durai
Spl. Government Pleader - R1 to R5
Mr.K.Surendar - R6
Mr.P.Krishnan - R7

ORDER

This Writ Petition has been filed to call for the records relating to the communication made in Tha.Ka.No.3623/13/2010 dated 03.07.2013 issued by the third respondent in pursuant to the demand dated 07.01.2013 made by the fourth respondent and consequential order made in L.Dis.No.30767/C2/2015 dated 11.08.2015 issued by the second respondent and quash the same.

2. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

3. The case of the petitioner is that when the petitioner presented a sale deed before the fourth respondent for registration, though it was registered, the document has not been returned to the petitioner. It is their further case that the third respondent has no jurisdiction to initiate proceedings under Section 47A of the Indian Stamps Act. The main contention of the petitioner is that the valuation of the property will not arise as the Society is registered under the Multi State Societies Act 2002 and comes under the purview of Central Registrar of Co-operative Societies. Their further contention is that in an earlier occasion exemption was granted vide G.O.S.Ms.2179 Co-operation dated 29.06.1996 and only in the clarification issued by the Government in its letter No.16495/J1/12-5 dated 21.10.2013, it has been stated that the societies which are registered under the Central Act are not eligible for exemption on stamp duty. But the authorities have not taken into consideration that their document was registered prior to this clarification and therefore the petitioner seeks for a direction to the respondents 4 and 5 to provide an opportunity to the petitioner and to release of the documents.

4. In the counter filed by the Government, it has been clearly indicated that exemption is only to those registered under the Tamilnadu Co-operative Societies Act and not under the Central enactment. According to them, such clarification has been issued in accordance with the Judgment of the Supreme Court. It has been further contended that it is only a notice sent to the petitioner on the recommendation of the fourth respondent and if the petitioner gives detailed explanation to such demand notice, this respondent being a quasi judicial authority will exercise its function by inspecting the property in person and conduct enquiry in the vicinity as its market value and the merits and demerits possessed by the property and its location.

5. The seventh respondent has been impleaded in this Writ Petition. According to them, G.O.Ms.No.2179, dated 29.06.16 is applicable only to transactions between the Co-operative Society and its members and the vendor in this case is not a member at all. Further the Government Order is not applicable to a society which is a Multi State Co-operative Society. According to them, there is an impersonation and Pankajam W/o.Ramasamy Pather has been impersonated as Pankaja W/o.Ramasamy Reddiar and criminal investigation is pending. Therefore, this Writ Petition is not maintainable.

6. In view of the contention of the fourth respondent that it is only a show cause notice, if the petitioner gives his explanation, it will be considered by the authorities concerned, it is suffice to direct the second respondent to give an opportunity to the petitioner and upon inspection by the authority concerned, pass an appropriate order within a period of two months from the date of receipt of a copy of this order. The sixth and seventh respondents are at liberty to file their objections before the appropriate authority. The authority will be at liberty to decide on the issue of eligibility with regard to the stamp duty exemption in accordance with law.

7. With the above observations, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

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Alandur, Chennai - 16.

+2 ccs to M/s.Om Sairam Advocate sr 69813
+1 cc to Government Pleader sr 70533

W.P.No.33928 of 2016

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