IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09-02-2016

Coram :

THE HONOURABLE MR. JUSTICE R. SUBBIAH

Writ Petition No. 3512 of 2016

M/s. Doveton Protestant Schools Association
rep. by its Authorised Signatory
Mr. M.A. Azees
No.1, Ritherdon Road
Vepery, Chennai - 600 007 .. Petitioner

Versus

1. The Inspector General of Registration
No.100, Santhome High Road
Chennai - 600 028

2. The Sub-Registrar
Registration Department
No.1103, Poonamallee High Road
Periamet, Chennai - 600 003 .. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Mandamus directing the respondents to register the Gift Deed submitted on 04.01.2016 in favour of the Corporation of Chennai without insisting for the payment of stamp duty payable at the rate of 8% and registration fee payable at the rate of 1% to the respondents for registering the gift deed.

Petitioner	:	Mrs. Karthikaa Ashok
For Respondents	:	Mr. S. Navaneethan Additional Government Pleader

ORDER

The petitioner has come forward with this writ petition praying to issue a Writ of Mandamus directing the respondents to register the Gift Deed submitted by them on 04.01.2016 in favour of the Corporation of Chennai without insisting for payment of stamp duty payable at the rate of 8% and registration fee payable at the rate of 1% to the respondents for registering the gift deed.

2. According to the petitioner, he is in possession and enjoyment of the land in Block No.1, Plot No.1, Ritherdon Road, Vepery, Chennai - 600 007 and the name of the petitioner was also incorporated in the Permanent land register issued in C.A. No. 25/8283. In the said land, the petitioner has established a school to impart education to students from Standard I to XII. The petitioner school has also got the approval by the Director of Matriculation Schools Chennai and the school building was constructed in the year 2010 with due approval by the Corporation of Chennai. In order to accommodate the increased strength of student, the school proposed to put up additional building for which a plan was submitted to the Corporation of Chennai for approval on 24.09.2014. After scrutinising the plan submitted by the petitioner, the corporation of Chennai, by letter dated 31.10.2014, insisted the petitioner school to execute a gift deed in favour of the Corporation for proposed road extension in future. Challenging the same, the petitioner has filed WP No. 30876 of 2014 before this Court. However, during the pendency of the writ petition, the petitioner school consented to execute a gift deed in favour of the Corporation. Thereafter the petitioner executed a gift deed dated 04.01.2016 in favour of the Corporation and presented it to the second respondent for registration, however, the second respondent insisted for payment of stamp duty.

3. The learned counsel for the petitioner would contend that the gift deed was not executed by the petitioner school in favour of any third person or for getting any personal benefits, but it was executed in favour of the Corporation of Chennai for the proosed road expansion in future. Therefore, the respondents are not justified in insisting the petitioner to pay stamp duty on the gift deed. The learned counsel for the petitioner also relied on GO (Ms) No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997 whereby the Government exempts payment of stamp duty in respect of gift deeds or settlement deeds relating to donation of lands by the citizens in favour of the government or local authority. By virtue of the said Government order, amendments were made to the fee schedule prescribed in Indian Stamp Act, 1899 to the effect that no registration fee shall be payable in respect of deeds of gifts or settlement of lands donated by citizens to be executed in favour of Government or any local authority in the State of Tamil Nadu for any public purpose. Relying on the above Government Order, the learned counsel for the petitioner would contend that the respondents are not justified in insisting stamp duty as a condition precedent for registering the gift deed presented by the petitioner in favour of the Corporation of Chennai. It is also stated that the petitioner has already given a representation dated 18.01.2016 to the respondents, but

till date, no order has been filed. Therefore, the learned counsel for petitioner prayed for issuing Mandamus as prayed for in the writ petition.

4. The learned Additional Government Pleader appearing for the respondents has not disputed the submission of the counsel for the petitioner relating to G.O. (Ms) No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997 by which exemption was granted for payment of stamp duty in respect of deeds of gifts or settlement of lands donated by citizens to be executed in favour of Government or any local authority in the State of Tamil Nadu for any public purpose.

5. I heard the learned counsel for both sides and perused the materials placed on record. It is seen from the records that the petitioner has submitted a representation dated 18.01.2016 to the respondents in which reliance was placed on G.O. (Ms) No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997 issued by the Government granting exemption from payment of stamp duty in respect of deeds of gifts or settlement of lands donated by citizens to be executed in favour of Government or any local authority. On the basis of this Government Order, the petitioner has submitted the representation dated 18.01.2016 and sought for exemption in payment of stamp duty on the gift deed dated 04.01.2016 presented by them in favour of the Corporation of Chennai. Admittedly, the said representation is pending on the file of the respondents without passing any order thereof. Therefore, it is just and proper to issue a direction to the petitioner to submit a fresh representation to the respondents along with the copy of G.O. (Ms) No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997 and on receipt of the same, the second respondent shall consider it and to pass appropriate orders thereof.

6. Accordingly, this writ petition is disposed of directing the petitioner to submit a fresh representation to the respondents along with a copy of G.O. (Ms) No.486, Commercial Tax and Religious Endowments Department dated 05.11.1997 within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the second respondent is directed to consider it and pass orders on merits and in accordance with law, within a period of four weeks thereafter. No costs.

rsh

s/d-
Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

To

1. The Inspector General of Registration
   No.100, Santhome High Road
   Chennai - 600 028

2. The Sub-Registrar
   Registration Department
   No.1103, Poonamallee High Road
   Periamet, Chennai - 600 003

+ 1 cc to Govt.Pleader SR 8554

+ 1 cc to M/s.J.Ashok, Advocate SR 8343

sai(co)
prk22/2

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