

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2017

CORAM

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

W.P.No.506 of 2017

M/s. Ashok Nandavanam Properties Private Limited,
Rep. by its Director S.Asokan,
office at 1/460, Mount Poonamallee Road,
Ayyappanthangal,
Chennai - 600 056.

.. Petitioner

Vs.

The Sub Registrar,
Sub Registrar Office,
Avadi, Chennai 600 054.

.. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a writ of mandamus, directing the respondent to register the Gift Deed, which is bearing pending document No.P201600135 of 2016 without insisting any further compliance in terms of stamp duty or registration fee and release the same within the time to be stipulated by this Court.

For Petitioner : Mr.R.Bharath Kumar

For Respondent : Mr.A.N.Thambidurai,
Special Government Pleader.

ORDER

By consent, the main writ petition itself is taken up for final disposal at the admission stage itself.

2. The petitioner has filed the above writ petition to issue a writ of mandamus, directing the respondent to register the Gift Deed, without insisting any further compliance in terms of stamp duty or registration fee and release the same within the time stipulated by this Court.

3. It is the case of the petitioner that during the course of his business, the petitioner company has made an application before the Chennai Metropolitan Development Authority (CMDA) to

develop the lands. As per prevailing Development Control Rules of Chennai Metropolitan Development Authority (CMDA), the developer has to transfer certain portion of the land in the proposed lay out by way of Gift Deed in favour of the local body for the public purpose. The petitioner company has also executed the Gift Deed in favour of the Commissioner, Poonamallee Panchayat Union, Thiruvallur District measuring about 7552 square meters for roads and 1975 square meters for parks comprised in various Survey Nos. of Nemam 'A' Village, Poonamallee Taluk, Thiruvallur District. According to the petitioner, the Government of Tamil Nadu has issued various orders fixing the stamp duty and registration fee payable in case of execution of gift deeds while handing over the OSR areas and road areas to the local authorities. The State Government issued G.O.(D).No.486 dated 05.11.1997, under Section 78 of the Registration Act, amending the table of fees by including item C92 which stated 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.

4. However, the petitioner's gift deed executed in favour of the authority was refused to be registered by the Registration Department. In this circumstance, the petitioner has filed the writ petition seeking for a direction to the Registration department to register the documents. The respondent filed his counter wherein it has been stated that the petitioner being a private limited company, cannot claim exemption under G.O.(D).No.486 dated 05.11.1997 and only an individual can claim exemption under the said Government Order.

5. Mr.R.Bharath Kumar, learned counsel appearing for the petitioner submitted that the contention raised by the respondent has already been decided by this Court in W.P.Nos.2106 and 2107 of 2015 dated 12.02.2015, which was followed by this Court in the order dated 17.03.2017, made in W.P.Nos.6181 to 6184 of 2017. In paragraph Nos.9 and 10 of the order passed in W.P.Nos.6181 to 6184 of 2017, it has been held as follows:

"9. Admittedly, in the case on hand, the petitioner is a developer and CMDA had also approved the Building Plan Permission and directed the petitioner to gift vacant pieces of lands to the Corporation of Greater Chennai through them and accordingly, the petitioner had executed four Gift Deeds. It is the submission of Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents that G.O.Ms.No.486, Commercial Taxes and Religious Endowments Department dated 03.12.1997 would

apply only to citizens and not to a corporate entity. However, this Court is of the view that in the light of the observations made in paragraphs 9 and 10 of the common order dated 12.02.2015 made in W.P.Nos.2106 & 2107 of 2015, there cannot be any impediment on the part of the third respondent to register the Gift Deeds and return the same to the petitioner. It is also to be pointed out at this juncture that the execution of the Gift Deeds in favour of the Corporation of Greater Chennai, was insisted by CMDA to approve the Building Plan Permission and the beneficiary is going to the Corporation of Greater Chennai-Local Body.

10. In the result, the writ petitions are disposed of and the respondents 2 and 3 are directed to register, release and return the Gift Deeds dated 02.02.2017 bearing Doc.Nos.P50, P51, P52 and P3/2017, if the papers are otherwise in order, within a period of two weeks from the date of receipt of a copy of this order and it is also made clear that release of the said documents would be subject to further proceedings that may be initiated under the provisions of the Indian Stamp Act and the Indian Registration Act. No costs. Consequently, the connected miscellaneous petitions are closed".

6. Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondent submitted that the order passed in the writ petitions relied upon by the learned counsel for the petitioner were not challenged by the respondent and therefore, it has become final. Since, this court has held that there cannot be any impediment on the part of the respondent to register the Gift Deeds and return the same.

7. In view of the observation made in paragraphs 9 and 10 of the common order dated 12.02.2015, made in W.P.Nos.2106 and 2107 of 2015, the respondent is bound to register the document and return the same to the petitioner.

8. In view of the ratio laid down in the said orders, the writ petitions are disposed of and the respondent is directed to register, release and return the Gift Deeds pending document in P201600135 of 2016, if the papers are otherwise in order within a period of two weeks from the date of receipt of a copy of this order and it is also made clear that the release of the said

documents would be subject to further proceedings that may be initiated under the provisions of the Indian Stamp Act and Registration Act. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

gsa/abr

To

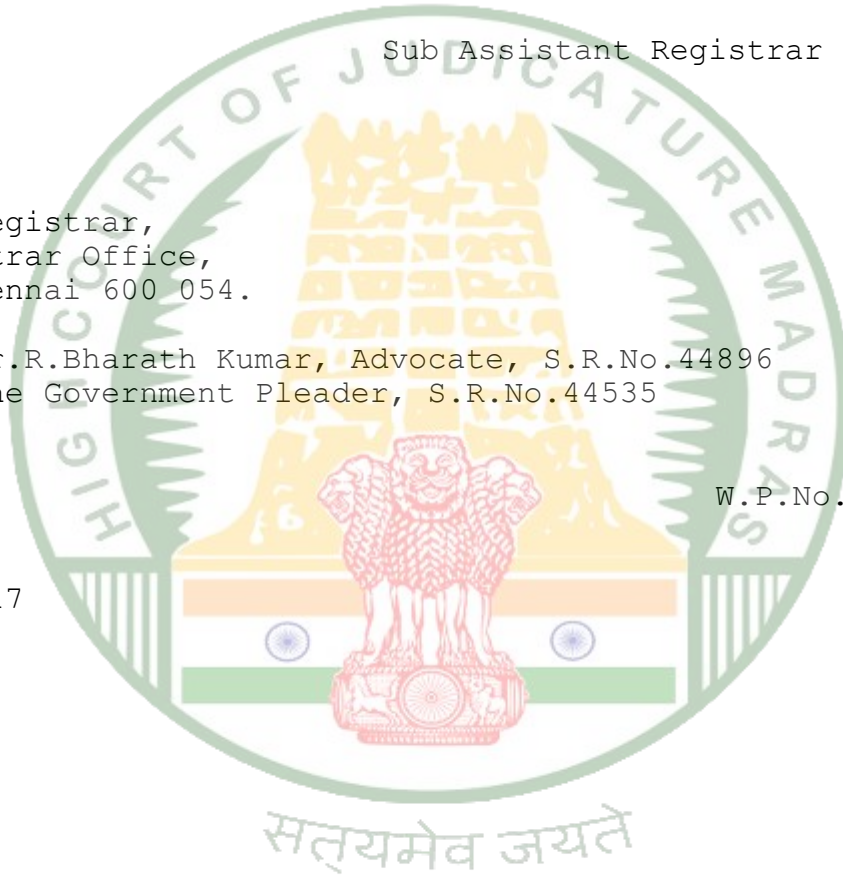
The Sub Registrar,
Sub Registrar Office,
Avadi, Chennai 600 054.

+1cc to Mr.R.Bharath Kumar, Advocate, S.R.No.44896

+1cc to the Government Pleader, S.R.No.44535

W.P.No.506 of 2017

PA(CO)
CS/05/07/17



WEB COPY