IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10275 of 2004
and
W.P.M.P.No.11988 of 2004

N.Lalitha .. Petitioner

Vs.

1. State of Tamil Nadu rep. by
   Secretary to Government,
   Commercial Taxes and
   Religious Endowments Department,
   Chennai-9.

2. The District Collector/Inspector of Panchayats,
   Pudukkottai District,
   Pudukkottai.

3. The Inspector General of Registration,
   Santhome High Road,
   Santhome, Chennai.

4. The Sub-Registrar,
   Thirumayam Taluk,
   Pudukkottai District. .. 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 order of the second respondent passed in Na.Ka.A3/3821/2003, dated 15.12.2003 and quash the same.

For petitioner : Mr.R.Venkatesulu for Mr.R.Hariharan

For respondents : Mr.Akhil Akbar Ali, Govt. Advocate

ORDER

It is represented by the learned counsel for the petitioner that the very same impugned order has been set aside by this Court in W.P.No.20483 of 2004, dated 22.08.2017. This is not disputed by the learned Government Advocate appearing for the respondents. The relevant portion of the said order dated

22.08.2017 passed in the said Writ Petition is extracted below:

".. ..

3. By the impugned order, the respondents have insisted upon a production of a "No Objection Certificate" for registration of the sale deed in respect of the land bearing Survey Nos.207.1 and 207.2 comprising of 3 acre 57 cents in Pudukkottai Taluk, Kavinadu Keezhuvattam Panchayat, Pudukkottai Sub-Registration District of Pudukkottai. The basis of the impugned order is a Circular issued by the Inspector General of Registration dated 09.09.2003, which in turn is based on the power conferred on the Inspector General under G.O.Ms.No.150, Revenue Department, dated 22.09.2000.

4. The learned counsel appearing for the petitioner has submitted that the said Government Order relied upon by the fourth respondent in its order dated 22.09.2000 was already quashed by this Hon'ble Court in Captain Dr.R.Bellie Versus The Sub-Registrar reported in 2007 (3) CTC 513, the relevant portions of which are extracted hereunder:

"9. It has already been pointed out that the Legislatures' of the State has not laid down defining 'public policy' or documents which are 'as opposed to public policy'. The provision was made vide G.O.Ms.No.150, Commercial Taxes, dated 22.09.2000, as quoted above, has also been set aside by this Court vide judgment dated 20.03.2006 in W.P.No.7237 of 2006. In view of the aforesaid fact, following the ratio laid down by the Supreme Court in the case of Basant Nahata (supra) (State of Rajasthan Vs. Basant Nahata - 2005 (12) SCC 77), we also declare the amended provision of Section 22-A as made vide Registration (Tamil Nadu Amendment) Act, 1994, unconstitutional and ultra-vires Articles 14 and 246 of the Constitution of India.

10. Accordingly, W.P.No.42945 of 2006 is allowed. The impugned order dated 22.09.2006 passed by the learned single Judge in W.P.No.25407 of 2005 is set aside and the writ appeal is allowed. The case of the appellants, Capt.Dr.R.Bellie and another is remitted to the competent authority for registration of the documents in accordance with law without taking into consideration the provision of amended Section 22-A of the Act or G.O.Ms.No.150, Commercial Taxes, dated 22.09.2000. There shall be no order as to costs."

5. In view of the above, this Writ Petition is allowed and the impugned order of the second respondent, dated 15.12.2003, is set aside. However, this order will not stand in the way of the respondents from invoking the relevant provisions, under the Registration Act as well as H.R. & C.E. Act. No costs. Consequently, connected Miscellaneous Petition is closed."

2. Following the above said order of this Court, dated 22.08.2017 passed in W.P.No.20483 of 2004, this Writ Petition is allowed in the same terms. Liberty is granted to the respondents as stated in paragraph 5 of the said order dated 22.08.2017. No costs. W.P.M.P. is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. Secretary to Government,
Commercial Taxes and
Religious Endowments Department,
Chennai-9.

2. The District Collector/Inspector of Panchayats,
Pudukkottai District,
Pudukkottai.

3. The Inspector General of Registration,
Santhome High Road,
Santhome, Chennai.

4. The Sub-Registrar,
Thirumayam Taluk,
Pudukkottai District.

+1cc to Mr.Usha Raman, Advocate, S.R.No.64359
+1cc to the Government Pleader, S.R.No.65445

W.P.No.10275 of 2004

GR(CO)
GN(12/10/2017)