HON'BLE SRI JUSTICE C. PRAVEEN KUMAR

WRIT PETITION No. 22517 of 2005

ORDER:

1) The present writ petition came to be filed seeking issuance of a writ of mandamus declaring the actions of the second respondent as arbitrary, illegal, contrary to law and also violative of principles of natural justice; and to adjudicate upon the proper deficit stamp duty payable on the agreement of sale filed in O.S.No.352 of 1999 which was marked as Ex.A1.

2) The averments in the affidavit filed in support of the writ petition would show that the petitioner herein, who is the plaintiff in O.S.No.352 of 1999, filed the above suit for specific performance of an agreement of sale dated 09.05.1996. Pending the said suit, the Additional Junior Civil Judge, Vizianagaram, while impounding the said document, send the same to the Revenue Divisional Officer, Vizianagaram, who, vide his proceedings, dated 10.04.2005, directed the petitioner to deposit Rs.32,340/- towards stamp duty and penalty. Challenging the same, the present writ petition came to be filed.

3) It is to be noted here that against an order of the Additional Junior Civil Judge, Vizianagara, in directing the petitioner/ plaintiff to pay a sum of Rs.10,890/- towards stamp duty and penalty, C.R.P.No.29 of 2006 came to be filed, which was allowed by setting aside the said order.

4) Though various grounds are raised, learned counsel for the petitioner mainly submits that the impugned order came to be passed without issuing any notice. It is his case that had a notice been issued,

he would have explained the nature of land etc., thereby enabling the authorities to consider various aspects while imposing penalty etc. He further submits that imposing penalty has no bearing on the suit, which is pending before the Additional Junior Civil Judge, Vizianagaram. The fact that no notice was given to the petitioner is admitted by the learned Government Pleader.

5) Having regard to the facts and circumstances of the case and taking into consideration the representations made by both the parties, the order under challenge is *set aside* and the matter is remanded back to the Revenue Divisional Officer, Vizianagaram, to pass fresh orders with regard to the quantum of stamp duty to be paid along with penalty etc., after giving notice to the petitioner, as early as possible, preferably, within a period of eight (08) weeks form the date of receipt of a copy of the order.

6) Accordingly, the writ petition is disposed of. There shall be no order as to costs.

7) Consequently, miscellaneous petitions, if any, pending in this Writ Petition shall stand closed.

JUSTICE C. PRAVEEN KUMAR

07.09.2017
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