THE HONOURABLE SRI JUSTICE C.PRAVEEN KUMAR

WRIT PETITION No.7900 OF 2008

ORDER:

This Writ Petition, under Article 226 of the Constitution of India, came to be filed seeking to declare the action of respondent Nos.1 to 3 in collecting the stamp duty of Rs.3,98,250/- in respect of document No.10965 of 2005 dated 20.10.2005 registered on the file of the third respondent, as illegal and arbitrary.

The case of the petitioner as seen from averments made in the affidavit filed in support of the writ petition, in brief, is as follows:

Petitioners herein are the absolute owners and possessors of the land admeasuring Acs.24-35 guntas situated in survey Nos.7, 8, 9/2 (old 9), Gandipet Village, Rajendranagar Mandal, R.R. District. The Hyderabad Urban Development Authority (HUDA) has approved the layout presented by the petitioners vide file No.1823/MP2/2002 dated 13.10.2005. Out of the entire land, an area of 21223.94 square yards was reserved for open place and another area of 31875.00 square yards was provided for roads. Thereafter, the petitioners intended to hand over the said land in favour of the Gram Panchayat, Gandipet Village-4th respondent, for roads and parks without any monetary consideration. Pursuant thereto, the petitioners have executed a Gift Settlement Deed dated 20.10.2005 in favour of the 4th respondent. The petitioners and fourth respondent presented the said Gift Settlement Deed dated 20.10.2005 before the third respondent for registration. However, the third respondent insisted for payment of stamp duty @ 3% and registration fee @ 0.5% on the value of the property for registering the said document, without considering the contention of the petitioners that the instruments, which are executed in favour of the Local Bodies, are exempted from payment of stamp duty. However, the petitioners are said to have paid an amount of Rs.3,98,250/- towards stamp duty and Rs.66,375/- towards registration fee, by way of challan, under protest. As such, the said gift deed was registered as document No.10965/2005. Thereafter, the petitioners made several representations to the third respondent as well as District Registrar, Ranga Reddy District, requesting them to return the amount paid for registration of document, in view of G.O.Ms.No.536 Rev.(U) dated 14.06.1971. Despite the same, no amount was returned. Hence, the present writ petition came to be filed.

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

The averments made in the affidavit filed in support of the writ petition would show that the Government has issued G.O.Ms.No.536 dated 14.06.1971 exempting the stamp duty chargeable in respect of instruments of gift executed in favour of Village Panchayats.

It is contended by the learned counsel for the petitioners that by virtue of said G.O., no stamp duty can be levied on the instruments executed in favour of the Gram Panchayat. In spite of the same, the respondents have collected stamp duty, which is impermissible in law.

The grievance of the petitioners is that they made a representation to Commissioner & Inspector General of Registration & Stamps and also The District Registrar, Ranga Reddy i.e. first and second respondents seeking refund of the amount collected from them, but there is no response to the same.

Learned AGP would submit that the first respondent may be directed to pass appropriate orders on the representation made by the petitioners, if no orders are passed.

Considering the rival submissions made, the Writ Petition is disposed of directing the first respondent to consider the representation made by the petitioners on 01.04.2008 seeking refund of stamp duty and pass necessary orders thereon in accordance with law, within a period of three to four months from the date of receipt of a copy of this order, if not already passed till date.

Consequently, miscellaneous petitions pending in this writ petition, if any, shall stand closed. No order as to costs.

JUSTICE C. PRAVEEN KUMAR

13.09.2017
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