IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. No.1422 of 2015
&
M.P. No. 1 of 2015

MGM Charitable Trust,
Rep. by its Managing Trustee Mr.MGM Anand,
No.1, 9th Street,
Dr.Radhakrishnan Salai,
Mylapore, Chennai - 600 004. ... Appellant

.. Vs ..

1. Chief Controlling Revenue Authority - cum
   Inspector General of Registration,
   No.100, Santhome High Road,
   Chennai - 600 028.

2. The District Registrar,
   Chennai Central (Admn.) (Add. Charge),
   District Registrar's Office,
   182, Bharathi Road, Royapettah,
   Chennai - 600 014.

3. The Member Secretary,
   CMDA,Thalamuthu Natarajan Building,
   No.1, Gandhi Irwin Road,
   Chennai - 600 008. ... Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47-A (10) of Indian Stamp Act, 1899, against the proceedings bearing No.3297/P1/2015 dated 08.04.2015 of the first respondent.

For Appellant	:	Mr.P.Chandrasekaran
For RR-1 & 2	:	Mr.A.Dev Narenderan, Government Advocate
For R-3	:	Mr.C.Johnson

JUDGMENT

The appellant-Trust is the absolute owner of the property bearing R.S.No.1118/18 of Block No.23, Mylapore Village, Mylapore, Triplicane Taluk, bearing Old Door No.88, New Door

No.108, Dr.Radhakrishnan Salai, Mylapore, Chennai - 600 004. The appellant wanted to develop the property and submitted a proposal for Basement + Stilt + 4 Floors in the said property for the purpose of office building. To comply with the rules and regulations, the appellant, in the interest of the public, has agreed to transfer the Street Alignment, Notified by the Chennai Metropolitan Development Authority "in lieu of Transfer of Development Rights applicable under the Development Regulation" No.9 r/w. Annexure XXI of the Development Regulation forming part of the Second Master Plan for the Chennai Metropolitan Area and prepared under the Tamil Nadu Town and Country Planning Act, 1971 through a Gift Deed in favour of the Chennai Metropolitan Development Authority, the third respondent herein and all the parties agreed for the same. Accordingly, the appellant had executed a Gift Deed dated 05.07.2013 bearing Document No.2421 of 2013 on the file of the SRO Mylapore, Chennai, in favour of Chennai Metropolitan Development Authority.

2. After the execution of Gift Deed, the District Registrar, Chennai Central (Administration) by show cause notice dated 24.11.2014 held that the exemption from stamp duty available for the aforesaid Gift Deed through G.O.Ms.No.486/97 CT & RE dated 05.11.1997 cannot be granted on the ground that there is a consideration in favour of the appellant as the appellant is getting the Transfer of Development Rights. The said proceedings were challenged before the second respondent. Thereafter, final order was passed on 12.12.2014 denying exemption under the G.O. and sought for a sum of Rs.9,98,020/- as deficit stamp duty. The said order passed by the second respondent dated 12.12.2014 has been challenged before the first respondent. The first respondent, by order dated 08.04.2015, dismissed the appeal and called upon the appellant to pay the stamp duty. The said order is being challenged before this Court.

3. Heard Mr.P.Chandrasekaran, learned counsel appearing for the appellant, Mr.A.Dev Narendran, learned Government Advocate appearing for respondents 1 and 2 and Mr.C.Johnson, learned counsel appearing for the third respondent.

4. Mr.P.Chandrasekaran, learned counsel appearing for the appellant has produced G.O.Ms.No.56, Commercial Taxes and Registration (J.1) Department dated 29.06.2017 which shows that stamp duty and registration fee exemption is given to any instrument executed for public purpose in favour of CMDA/CMRL even when there is a consideration in the form of transfer of development rights involved and the said G.O. is made retrospectively applicable from 03.12.1997. When the said G.O. is applicable from 03.12.1997 retrospectively, the appellant has to get the benefit under the said Government Order. Therefore, the appellant has to get exemption from stamp duty and registration fee as the Gift Deed was executed on 05.07.2013 and the impugned order was passed on 12.12.2014. Hence, in view of

the aforesaid Government Order, the order passed by the second respondent dated 12.12.2014 demanding the appellant to pay the deficit stamp duty and confirmed by the first respondent on 08.04.2015 have to be set aside.

5. Accordingly, this Civil Miscellaneous Appeal is allowed and the proceedings of the first respondent bearing No.3297/P1/2015 dated 08.04.2015, is set aside and no amount is payable by the appellant-Trust. If the Gift Deed bearing Document No.2421 of 2013 on the file of the SRO, Mylapore is held by the SRO or any other authority, the same is directed to be returned to the appellant-Trust, if the same has not already been returned. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS II)

//True copy//

Sub Assistant Registrar

Jrl

To

1. The Chief Controlling Revenue Authority - cum
Inspector General of Registration,
No.100, Santhome High Road,
Chennai - 600 028.

2. The District Registrar,
Chennai Central (Admn.) (Add. Charge),
District Registrar's Office,
182, Bharathi Road, Royapettah,
Chennai - 600 014.

3. The Member Secretary,
CMDA,Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Chennai - 600 008.

+1cc to Mr.Chandra Sekaran, Advocate SR.No.17708
+1cc to Mr.C.Johnson, Advocate SR.No.18189
+1cc to Government Pleader SR.No.17821

C.M.A. No.1422 of 2015

KS(CO)
GN(06/04/2018)