

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.Nos.36222 of 2015

and

M.P.No.1 of 2015

R.Balaji

... petitioner

vs.

1. The Sub-Registrar,
Office of the Sub-Registrar,
Ashok Nagar, Chennai - 600 083.
2. The Inspector General of Registration,
O/o The Inspector General of Registration,
Santhom High Road,
Chennai- 600 028.

.... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Certiorari calling for the records in respect of the order dated 28.07.2015 and 17.08.2015 passed by the 1st respondent and to quash the same.

For Petitioner : Mr. T.V. Vineeth Kumar

For Respondents: Mr.R.A.S. Senthilvel
Addl. Government Pleader.

O R D E R

The notice issued by the Sub-Registrar directing the writ petitioner to pay a registration charges in accordance with provisions of the Registration Act is under challenge in this writ petition.

2. On account of the non-payment of registration charges, the State Exchequer suffered a financial loss, thus a notice was issued to the writ petitioner to deposit the registration charges in respect of the construction agreement registered by

the writ petitioner.

3. Admittedly, the writ petitioner had registered a document in 2809 of 2014 which is a construction agreement executed by M/s.India Builders (Chennai) Limited. It is stated that the construction agreement with the parties have entered in to an agreement for sale on the same date. Based on the recital in the construction agreement the Sub-Registrar/1st respondent issued the first notice to the writ petitioner on 28.07.2015 and the second notice on 17.08.2015 directing the writ petitioner to pay a sum of Rs.71,500/- towards the deficit registration fees on the ground that in the internal audit during the annual audit there was an objection raised in respect of the deficit registration fee for registration of the construction agreement. Challenging the same present writ petition has been filed.

4. The Learned Special Government Pleader appearing on behalf of the respondent contended that, the writ petitioner is liable to pay the registration fee in accordance with the provisions of the Act. On account of the non-payment of required registration fee the State has suffered financial loss. The deficit of the stamp duty was identified during the internal audit and audit party raised an objection in this regard. Consequently, the impugned notice has been issued to the writ petitioner to pay the registration fee so as to settle the matter. Further the writ petitioner has challenged the same in the present writ petition.

5. This Court is of the opinion that, if at all the writ petitioner is aggrieved from and out of fixation of registration fee, it is left open to the writ petitioner to adjudicate the same before the competent authorities on merits and in accordance with law. Thus, factual details in respect of the fixation of registration free can never be adjudicated in writ proceeding under Article 226 of the Constitution of India. All such complex facts and circumstances ought to be adjudicated before the competent authorities by producing the documents and by adducing evidences if required. However, the deficit of registration fee is now sought to be paid by the writ petitioner based on the audit objection raised by the audit party in this regard.

6. The writ petitioner is at liberty to give his explanation/objection if any enabling them to consider the grievances of the writ petitioner and redress the same on merits and in accordance with law. However, this Court is not inclined to quash the notice issued to the writ petitioner for the payment for deficit of registration fee. In view of the matter, the writ petitioner is at liberty to adjudicate merits and demerits before the competent authorities and thereafter before the appellate authority under the provisions of the Act.

Accordingly, the writ petition stands dismissed. There shall be no order as to costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pkn

To

1. The Sub-Registrar,
Office of the Sub-Registrar,
Ashok Nagar, Chennai - 600 007.
2. The Inspector General of Registration,
O/o The Inspector General of Registration,
Santhom High Road,
Chennai- 600 028.

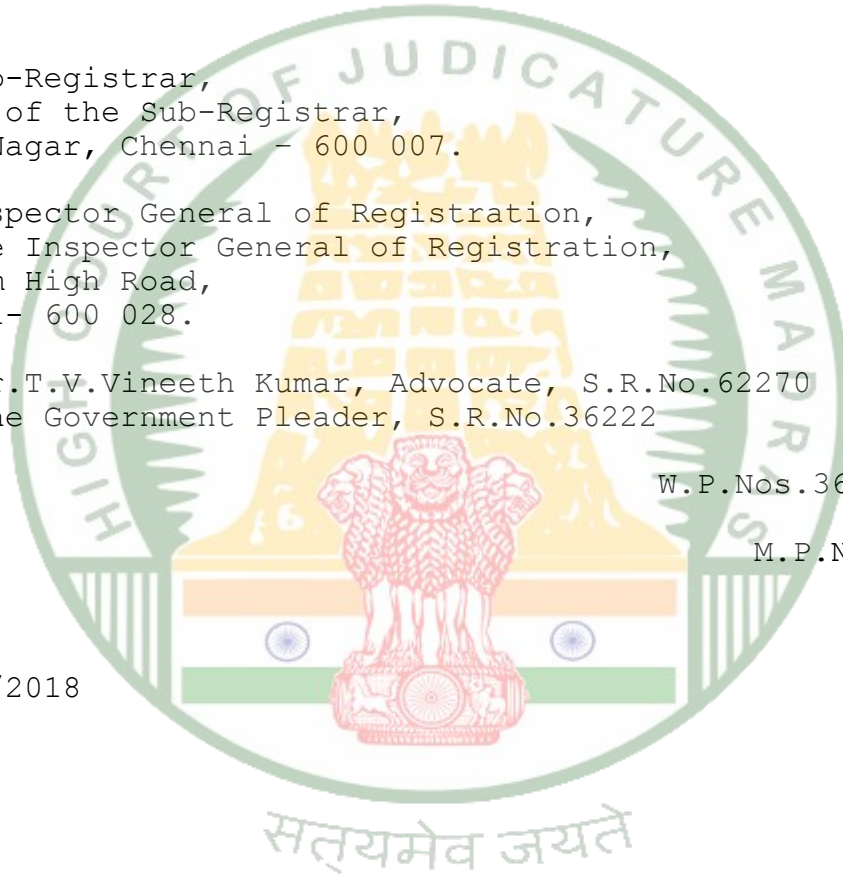
+1cc to Mr.T.V.Vineeth Kumar, Advocate, S.R.No.62270

+1cc to the Government Pleader, S.R.No.36222

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and
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SSD(CO)

rrs 03/10/2018



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