

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:05.11.2019

Coram:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.26357 of 2019
and

W.M.P.Nos.25712, 25716 & 25718 of 2019

M/s Indian Oil Corporation,
Rep.by its Senior Manager,
Mr.C.Appandi Rajan,
S/o T.P.Chandra Keerthy,
Salem Divisional Office,
First Floor,
Salem District Lorry Owners Association Building,
234, Salem Bangalore Bye Pass Road,
Kondalampatty,
Salem 636 010. ... Petitioner

/versus/

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Mylapore,
Chennai-600 028.

2.The District Registrar,
Registration Department,
Salem.

3.Sub Registrar,
Office of the Sub-Registrar of Sangagiri,
Sangagiri,
Salem District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the letter dated 07.11.2018 by pending Document No.28/2018 issued by the third respondent demanding stamp duty at 4% for a lease period of 20 years and quash the same as unconstitutional, ultra vires and non-est in the eye of law as it violates the provisions of Article 35(a) Schedule I of Indian Stamp Act, 1899 and further direct the third respondent to complete the registration of the lease deed dated 30.07.2018 kept pending by the third respondent in Pending No.28/2018 registered on 01.10.2018.

For Petitioner :Mr.R.Sreedhar

For Respondents :Mr.T.M.Pappiah, Spl.G.P
for R1 to R3

O R D E R

This writ petition is filed praying to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the letter dated 07.11.2018 by pending Document No.28/2018 issued by the third respondent demanding stamp duty at 4% for a lease period of 20 years and quash the same as unconstitutional, ultra vires and non-est in the eye of law as it violates the provisions of Article 35(a) Schedule I of Indian Stamp Act, 1899 and further direct the third respondent to complete the registration of the lease deed dated 30.07.2018 kept pending by the third respondent in Pending No.28/2018 registered on 01.10.2018.

2.Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

3.The short point involved in this case is that when the petitioner-Corporation presented lease deed for registration, the respondents have demanded 4% stamp duty on the premise that the lease period is beyond 30 years. But in fact, the document, which is presented by the petitioner herein is the 2nd lease deed, after expiry of the lease for a period of 20 years and it is not the extension of the earlier lease deed. The recital of the lease deed presented does not indicate that it is the extension of the earlier lease deed. Being a fresh lease deed sought to be presented for 20 years period the respondents cannot take note of the earlier lease period and demand 4% of stamp duty.

4. In the counter, the respondents state that since the first lease term was for a period of 20 years from 28.03.1998 to 27.03.2018 and registered as Document No.218 of 2001. The second lease agreement period between the parties is for a further period of 20 years from 28.03.2018 to 27.03.2038. It has to be construed as document of registered lease deed for the term of (20+20)= 40 years. The said understanding and interpretation of the provisions of Article 35(a)of Schedule I of the Indian Stamp Act, 1899 is improper and incorrect. The first respondent ought to have read the recital of the lease document and based on the recital, the stamp duty has to be assessed.

5. As far as the present case is concerned, the recital in the pending Document No.P28/2018 presented by the petitioner herein before the second respondent is a fresh lease deed executed between the parties after expiry of the previous lease

deed. Hence, the order passed by the Sub Registrar, SanKagiri demanding 4% for the pending document No.P28/2018 is hereby quashed. The third respondent is hereby directed to collect 1% of the stamp duty for registering the said lease document pending with him as Document No.P28/2018.

6. With the above directions, the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To:

1.The Inspector General of Registration,
Registration Department,
No.100, Santhome High Road,
Mylapore,
Chennai-600 028.

2.The District Registrar,
Registration Department,
Salem.

3.Sub Registrar,
Office of the Sub-Registrar of Sangagiri,
Sangagiri,
Salem District.

+lcc to Mr.R.Sreedhar, Advocate Sr.92023

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W.P.No.26357 of 2019

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srg 12/12/2019