

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2019

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.10594 of 2017 and
WMP.No.11533 of 2017

M/s.Sobha Tambaram Developers Limited
(Formerly known as Sobha Tambaram Developers
Private Limited) having Office at Kothari Buildings,
Door No.115, 1st Floor, Nungambakkam High Road,
Chennai-34
rep. by its Authorized Signatory .. Petitioner

-vs-

- 1.The Inspector General of Registration,
Santhome, Chennai-600 028.
- 2.The Sub-Registrar,
Padappai, Sriperumbudur Taluk,
Kanchipuram District-602 105. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India,
praying for the issue of a Writ of Certiorari, calling for the records
relating to the Proceedings dated 20.10.2016 of the 2nd respondent
and to quash the same.

For Petitioner

: Mr.K.Rajasekaran

For Respondents

: Mr.P.P.Purushothaman,
Government Advocate

ORDER

Challenging the impugned Notice dated 20.10.2016 demanding the petitioner to pay the deficit registration fee and stamp duty on the Gift Deed executed on 24.03.2015 registered as Document No.2157 of 2015 on the file of the Sub-Registrar, Padappai, the 2nd respondent herein, the present Writ Petition has been filed.

2. Learned Counsel for the petitioner assailing the impugned notice stated that the petitioner company along with another company namely, M/s.Sobha Nandampakkam Developers Limited (formerly known as Tirur Cyber Developers Private Limited renamed as Sobha Nandambakkam Developers Private Limited) developed lands in Survey Nos.652/2 to 652/11 of Nandambakkam Village, Pallavaram Taluk (formerly under Sriperumbudur Taluk), Kancheepuram District into layouts as per the Planning Permission issued by the Chennai Metropolitan Development Authority. Pursuant to the obligation under the Development Control Rules, the CMDA has directed the petitioner and another company, namely, M/s.Sobha Nandampakkam Developers Limited to execute a Gift Deed in favour of the Commissioner, Kundrathur Panchayat Union in respect of layout roads and Open Space Reservation area. Accordingly, a Gift Deed dated 24.3.2015

was executed jointly by both the parties on the file of the Sub-Registrar of Padappai, the 2nd respondent herein for public purpose and the same was also accepted by the Donee, namely, the Commissioner, Kundrathur Panchayat and final approval towards the residential layout was also granted to the petitioner.

3. The learned Counsel for the petitioner further submitted that the Sub-Registrar, Padappai, the 2nd respondent herein released the said Gift Deed after a lapse of 33 months and issued a notice dated 20.10.2016 to the petitioner claiming the deficit stamp duty of Rs.75,53,091/- and deficit registration fee of Rs.10,79,015/- payable within a week's time. On receipt of the demand notice, the petitioner went to the office of the Sub-Registrar Padappai and explained that there is no obligation on the part of the petitioner to pay the deficit stamp duty or registration fee. It was not accepted. However, during the pendency of the Writ Petition, the Government have issued G.O.(Ms.) No.56, Commercial Taxes and Registration (J1) Department dated 29.06.2017 granting exemption from payment of the stamp duty and registration fee in respect of deeds of Gift or Settlement of Lands donated by citizens to be executed in favour of Government or any Local Authority in the State of Tamil Nadu for public purpose.

4. Learned Government Advocate appearing for the respondents also filing a Counter Affidavit submitted that the Government of Tamil Nadu have issued a Notification under G.O.(Ms.) No.56, Commercial Taxes and Registration (J1) Department dated 29.06.2017 exempting stamp duty and registration fee in respect of any instrument executed in favour of the Government or any Local Authority in the State of Tamil Nadu with retrospective effect from 03.12.1997. Since the petitioner and M/s.Sobha Nandampakkam Developers Limited had jointly executed a Gift Deed dated 24.03.2015 bearing Document No.2157/2015 on the file of the 2nd respondent for public purpose and the same was accepted by the Donee, namely, the Commissioner, Kundrathur Panchayat Union, they are exempted from paying the deficit stamp duty and registration fee, it is pleaded.

5. Heard the learned Counsel on either side and I have also perused the materials available on record carefully.

6. At the outset, it appears that G.O.(Ms.) No.56, Commercial Taxes and Registration (J1) Department dated 29.06.2017 was issued exempting stamp duty and registration fee in respect of any instrument executed in favour of the Government or any Local Authority in the State of Tamil Nadu with retrospective effect from

03.12.1997. The relevant portion is extracted here under :

"5. The Government have therefore decided to modify the orders issued in the Government Order first read above for grant of Stamp Duty and Registration Fee exemption to any instrument executed in favour of Government or any local authority in the State of Tamil Nadu, wherein properties are given for any public purpose and to omit the term 'Citizen' appearing in the notifications issued therewith and order accordingly."

Since in the present case also, the petitioner along with another company, namely, M/s.Sobha Nandampakkam Developers Limited, jointly executed a Gift Deed dated 24.3.2015 on the file of the Sub-Registrar of Padappai, the 2nd respondent herein for public purpose and the same was also accepted by the Donee, namely, the Commissioner, Kundrathur Panchayat, following the G.O.Ms.No.56 dated 29.06.2017, the impugned Notice dated 20.10.2016 of the 2nd respondent is quashed. सत्यमेव जयते

7. In the result, the Writ Petition stands allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

22.11.2019

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T.RAJA, J.
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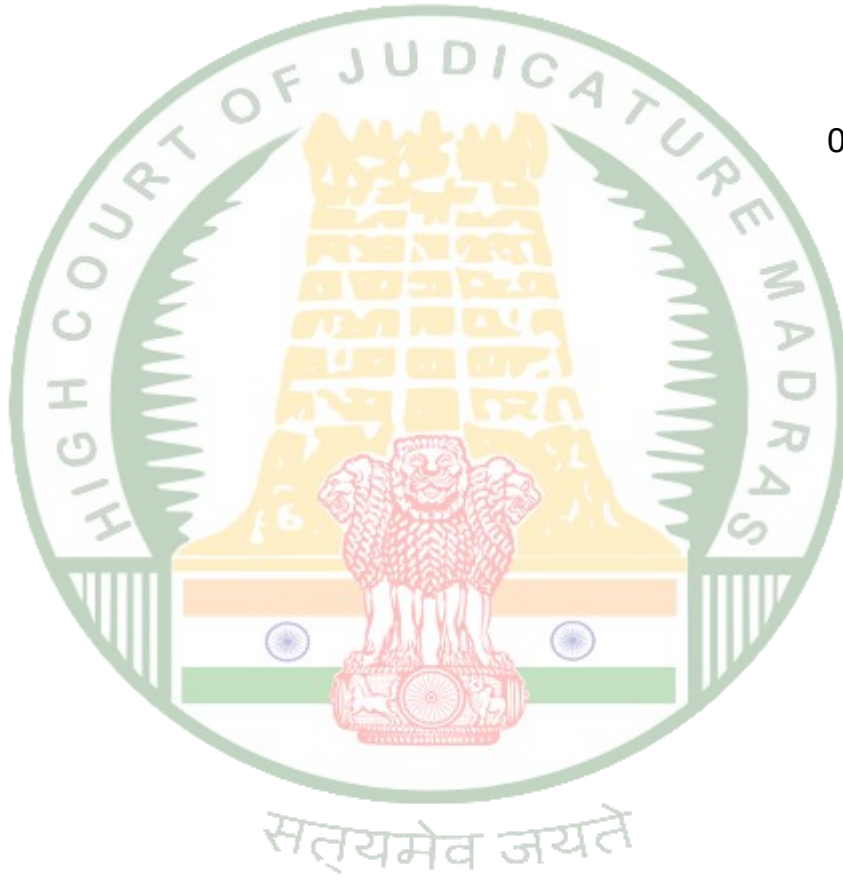
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