

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 24.11.2020

CORAM :

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.17555 of 2015

M/s.Bharat Petroleum Corporation Ltd.,
rep by its Territory Manager (Retail),
Coimbatore.

... Petitioner

Vs.

1.The Inspector General of Registration,
100, Santhome High Road,
Chennai - 600 028.

2.The Special Deputy Collector (Stamps),
District Collector Office,
State Bank Road,
Coimbatore - 641 018.

3.The Sub Registrar,
Postal Colony, Sivan Theatre Road,
Tirupur - 641 602.

... Respondents

Petition filed under Article 226 of the Constitution of India for issuing a writ of mandamus directing the 3rd respondent to forthwith release the original Sale Deed bearing Doc.No.4766 of 2002 dated 25.10.2002 without insisting upon the Corporation to pay a sum of Rs.3,79,920/- with interest towards alleged deficit stamp duty.

For Petitioner : Mr.O.R.Santhanakrishnan

For Respondents: Mr.P.P.Purushothaman,
Government Advocate

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O R D E R

The petitioner has filed the above Writ Petition to issue a Writ of Mandamus directing the 3rd respondent to forthwith release the original Sale Deed bearing Document No.4766 of 2002 dated 25.10.2002 without insisting upon the Corporation to pay a sum of Rs.3,79,920/- with interest towards alleged deficit stamp duty.

2.It is the case of the petitioner that as per the Memo dated 15.05.2015, the petitioner was called upon on 26.05.2015

with regard to payment of deficit stamp duty of Rs.3,79,920/-, however, the petitioner did not appear on the said date and requested this Court to fix a date for appearance of the petitioner before the 2nd respondent. This Court, by order dated 19.06.2015, directed the 2nd respondent to fix the date of hearing on 30.06.2015, giving liberty to the authorized representative of the petitioner to appear before the 2nd respondent and explain their stand as to the payment of the deficit stamp duty.

3.Subsequently, when the Writ Petition was taken up for hearing on 24.09.2020, the learned Government Advocate appearing for the respondents submitted that the 2nd respondent had already passed an order on 08.04.2008 itself calling upon the petitioner to pay a sum of Rs.3,79,920/- as deficit stamp duty. However, this fact was not brought to the notice of this Court when this Court passed an order on 19.06.2015 calling upon the 2nd respondent to conduct the enquiry. Recording the submissions made by the then learned Additional Government Pleader, this Court fixed the date of hearing as 30.06.2015. Since the learned counsel for the petitioner submitted that the petitioner was not served with the copy of the order dated 08.04.2008 and also that the learned Government Advocate submitted that service of the order dated 08.04.2008 could not be established by any document from the available files, in the interest of justice, this Court directed the 2nd respondent to conduct enquiry by fixing the date of hearing on 12.10.2020, giving liberty to the petitioner's authorized representative to appear for enquiry before the 2nd respondent and explain their stand as to the payment of deficit stamp duty of Rs.3,79,920/-. When the Writ Petition was taken up for hearing on 24.09.2020, the learned counsel on either side also submitted that pursuant to the enquiry conducted in the year 2015, the 2nd respondent has not passed any order so far.

4.Now, pursuant to the order dated 24.09.2020, the 2nd respondent passed an order dated 23.10.2020 calling upon the petitioner to pay the deficit stamp duty as claimed in their Memo dated 15.05.2015.

5.Mr.O.R.Santhanakrishnan, learned counsel appearing for the petitioner submitted that the 2nd respondent had passed the order dated 23.10.2020 only relying upon the alleged order dated 08.04.2008, which was not at all served on the petitioner. Further, the learned counsel for the petitioner submitted that the 2nd respondent has not passed the order independently, applying her mind. The learned counsel also submitted that the 2nd respondent has only re-written the alleged order dated 08.04.2008.

6.In any event, since the 2nd respondent had passed the order pursuant to the orders of this Court, if the petitioner

is aggrieved over the same, the remedy open to them is to file an appeal in accordance with law. In such view of the matter, the Writ Petition stands closed, giving liberty to the petitioner to challenge the order dated 23.10.2020 in accordance with law. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector General of Registration,
100, Santhome High Road,
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A.SK(27/11/2020)

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