THE HON'BLE SRI JUSTICE A.ABHISHEK REDDY

Writ Petition No.27228 of 2013

ORDER:

This Writ Petition is filed with the following prayer:

> "…. (i) setting aside the Final Notice bearing number 611 of 2013 dated 31.08.2013; and (ii) setting aside the demand notice bearing No.437/2013, dated 19.07.2013 and; (iii) declaring that the action of Respondent No.1 demanding the deficit stamp duty of Rs.97,59,880/- by adding the value of the buildings, plant & machinery owned by the Petitioner, when the subject matter of pending document bearing No.P-578/2013 of book-1, SRO, Uppal is only in respect of land, as illegal, arbitrary, without jurisdiction, and violative of the principles of natural justice; and (iv) refund the additional stamp duty and registration fee of Rs.18,32,762/- paid by the Petitioner along with interest @ 12% per annum …."

2) Brief facts of the case are that initially the petitioner, which is a Pvt. Ltd. Company registered under the provisions of the Companies Act, 1956, have entered into an agreement of sale, dated 05.05.2009, with the original owner Thyssenkrupp Industries India Private Limited, for purchasing vacant land admeasuring 41,620.32 sq.yards in survey Nos.212, 215 and 223 situated at Cherlapally Industrial Area, Ghatkesar Mandal, Ranga Reddy District. Subsequent thereto, the petitioner has applied to the Municipality for construction of the factory and installed necessary machinery. In the year 2013, the petitioner got a sale deed executed in its favour on 21.03.2013 in respect of the above land by paying entire stamp duty as well as the registration fee applicable for the purchase of the above land. Subsequently, the impugned demand notice, dated 19.07.2013, was issued asking the petitioner to pay the deficit stamp duty and registration fee of Rs.97,59,880/- by adding the value of the building, plant &

machinery, which building is constructed by the petitioner and the machinery in the factory is installed by them and was not part of the original agreement of sale. It was only the land that was agreed to be sold and the building was constructed and machinery was installed by the petitioner. As such, the present writ petition is filed assailing the demand notice, dated 19.07.2013, as well as the final notice, dated 31.08.2013.

3) Heard Sri Lakshmi Kumaran & Sridharan, learned counsel for the petitioner, and the learned Government Pleader for Revenue for respondents.

4) Learned counsel for the petitioner while taking this Court through the various documents *viz.*, agreement of sale, sale deed, permission from Municipality for construction of the building, etc., has strenuously argued that the subsequent construction of the building as well as the machinery installed by the petitioner are not liable for any stamp duty and registration fee, as they are not the subject matter of agreement of sale. He further contends that the recitals of the agreement of sale clearly show that as on the date of entering into the said agreement, the land was a vacant land and the building was constructed subsequently by the petitioner with its own funds and the machinery was also installed by the petitioner.

5) Per contra, the learned Government Pleader for Revenue has vehemently argued that as on the date of execution of the sale deed, the land was not vacant and a structure was existing in the said land. As such, the registration authorities on finding that the petitioner has suppressed the existence of structures standing on

the land and also the machinery installed, have issued a notice calling the petitioner to pay the deficit stamp duty and registration fee. Thus, he contends that the issuance of demand notice and final notice is perfectly justified and there are no grounds for interference.

6) It is seen from the record that as on the date of purchase of land, the same was vacant land as evident from the recitals of the agreement of sale as well as the photo annexed to the agreement of sale at the time of registration of the said agreement of sale. Subsequently, the petitioner had obtained permission from the Municipality concerned and made constructions and installation of the machinery at their own cost. The sale deed presented on 21.03.2013 reflects the construction of the building as well as installation of the machinery by the petitioner themselves and therefore the vacant land only was sought to be registered.

7) The learned counsel for the petitioner has brought to the notice of this Court that due to recession in the automobile industry, the petitioner-factory is shut down and that even though the petitioner has a very good case on the facts of the case, petitioner is willing to pay the amount demanded by the respondent authorities in the impugned notices and settle the issue to give a quietus to the litigation, provided, the respondents do not levy any interest or penalty on the demanded amount.

8) Even though the learned Government Pleader has opposed the offer made by the petitioner, this Court is of the opinion that the offer made by the learned Counsel for the petitioner is a fair

one, keeping the peculiar facts and circumstances of the case, to see that there is a quietus to the entire litigation and to meet the ends of justice, the writ petition is disposed of with the following directions:

i) The petitioner shall pay an amount of Rs.97,59,880/- (Rupees Ninety Seven Lakhs Fifty Nine Thousands Eight Hundred and Eighty only) to the respondent authorities, which is impugned in the demand notice dated 19.07.2013, within a period of three weeks from the date of receipt of the copy of this order;

ii) On such payment made by the petitioner, the respondents shall register the document in question and release the same forthwith to the petitioner;

iii) The respondents shall not levy any penalty or interest on the amount demanded in the impugned notices; and

iv) Any consequential order/s passer pursuant to the demand notice bearing No.437/2013, dated 19.07.2013, is/are also liable to be set aside.

9) Accordingly, the writ petition is disposed of.

The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

A.ABHISHEK REDDY, J

Date : 10/1/2020
smr/sur