IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.02.2021

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.NOS.4830 TO 4832 OF 2012
AND
W.M.P.NOS.1, 1 AND 1 OF 2012

Archana Industries,
Rep. by its Partner,
V.Lakshminarayanaswamy,
707, Avinashi Road,
Coimbatore-641 018.
... Petitioner in W.P.No.4830 of 2012

2. Suguna Industries,
Rep. by its Partner,
V.Lakshminarayanaswamy,
707, Avinashi Road,
Coimbatore-641 018.
... Petitioner in W.P.No.4831 of 2012

3. V.Lakshmi Narayanaswami,
707, Avinashi Road,
Coimbatore-641 018.
... Petitioner in W.P.No.4832 of 2012

Vs.

1. The Sub-Registrar,
Gudalur.

2. The District Registrar,
Uthagamandalam.

3. The Inspector General of Registration,
Chennai-600 028.
... Respondents in all W.Ps

Common Prayer: Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the third respondent in relation to his proceedings in Ka.No.55185/P1/2011 dated 12.12.2011 and quash the same and consequently direct the respondents to release the document in P.No.4,5, 6 dated 15.07.2011 pending on the file of the first respondent duly registered.

For Petitioners : (In all W.Ps)	Mr.A.S.Balaji
For Respondents : (In All W.Ps.)	Mr.P.P.Purushothaman Special Government Pleader

COMMON ORDER

These writ petitions are filed for issuances of the Writ of Certiorarified Mandamus, calling for the records of the third respondent in relation to his proceedings in Ka.No.55185/P1/2011 dated 12.12.2011 and quash the same and consequently direct the respondents to release the document in P.No.4,5,6 dated 15.07.2011 pending on the file of the first respondent duly registered.

2. The brief facts that are necessary for disposal of the writ petitions are as follows:-

The petitioners have purchased the properties from one R.Madhaian, who is referred to as vendor herein after. There are seven properties which are the subject matter of the three sale deeds. The case of the petitioners is that the properties, which were purchased from M/s.Mahavir Plantations Pvt Ltd., were brought to sale in public auction for recovery of dues from M/s.Mahavir Plantations Pvt Ltd., under the Employees Provident Fund and Miscellaneous Provisions Act 1952. As required in law, sale proceedings were initiated following the provisions of Income Tax Act 1961 and the petitioner's vendor namely R.Madhaian purchased the property in Public auction. It is admitted that the sale certificate was issued to R.Madhaian on 26.05.2010.

3. After the property was purchased in the public auction, R.Madhaian executed three sale deeds on 15.07.2011 in favour of petitioners. It is stated that the sale deeds were presented for registration, after complying with all formalities by the petitioners. It is not in dispute that the sale deeds were presented by the petitioners for registration.

4. It appears that the first respondent has sought some clarification from the second respondent before registering the documents submitted by the petitioners. Thereafter, the second respondent sought the opinion of the third respondent as to the registration of the sale deeds presented by the petitioners. The third respondent, by his letter dated 12.12.2011, informed the respondents 1 and 2, marking a copy to the vendar, namely R.Madhaian refusing to register and release the documents unless and until the stamp duty payable on the sale certificate, dated 26.05.2010, is paid. Thereafter, the first respondent passed the impugned order dated 12.12.2011. Challenging the same, the present writ petitions are filed.

5. The learned counsel for the petitioners submits that the petitioners cannot be compelled to pay the stamp duty in the sale certificate and he also produced the judgment of this Court reported in AIR 2014 MADRAS 161 in the case of D.B.Prakashchand and another Vs. The Inspector General of Registration, Santhome High Road, Chennai and others. In the above case, the petitioners have presented the sale deed before the third respondent/Sub-Registrar. The third respondent refused to return those documents, by informing that those documents were impounded for improper payment of stamp duty and the first respondent/Inspector General of Registration directed the third respondent to require the production of the sale certificate, impound he same and collect the deficit stamp duty and until then directed to keep the documents pending registration. In the said case, it was held by this Court that respondents were not entitled to seeks for production of sale certificate for impounding the same for payment of deficit stamp duty. It is also held that the sale certificate is not a document of conveyance and hence does not attract stamps duty. He also relied upon another judgement reported in 2012 (2) CTC 759 in the case of Dr.Meera Thinakaran Vs. The State of Tamil Nadu for identical proposition.

6. This Court has carefully read the above two judgments. This Court is of the view that the document namely sale certificate, which is presented for the registration, should be charged as per Article 18 and conveyance should be charged as per Article 23 of the Indian Stamp Act . In the light of the above judgments while apply to the case on hand. The writ petitions have to be allowed.

7. This Court is of the view that the impugned order is passed without jurisdiction. Hence, these writ petitions are allowed and the impugned order passed by the third respondent in relation to his proceedings in Ka.No.55185/P1/2011 dated 12.12.2011 is quashed. This Court directs the respondents to release the documents in P.Nos.4,5, 6 dated 15.07.2011 pending on the file of the first respondent duly registered. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To

1. The Sub-Registrar,
   Gudalur.

2. The District Registrar,
   Uthagamandalam.

3. The Inspector General of Registration,
   Chennai-600 028.

W.P.Nos.4830 to 4832 of 2012
and
W.M.P.Nos.1, 1 and 1 of 2012

VG-II(CO)
RLP(24/11/2021)