IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.19584 of 2010
and
W.M.P.No.1 of 2010

The Tristar Accommodations Ltd.,
Rep. by its Managing Director,
Tmt.Rashmi,
D/o.(Late) Thiru. Naren Rajan,
No.657, Avinashi Road,
Coimbatore-641 037. ...Petitioner

(Petitioner substituted vide order dated 08.08.2019 in W.M.P.No.12980 of 2019 in W.P.No.19584 of 2010)

Vs.

1. The Inspector General of Registration cum
Chief Revenue Control Officer,
No.100, Santhome High Road,
Chennai-600 028.

2. The Sub-Registrar,
J-II, Raja Street,
Coimbatore-641 001. ...Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the impugned proceedings of the 1st respondent issued in Pa.Mu.No.57070/E1/06 dated 14.06.2010 and quash the same.

For Petitioner : M/s.R.Parthiban

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned proceedings of the 1st respondent, dated 14.06.2010 issued in Pa.Mu.No.57070/E1/06 and quash the same.

2. The case of the petitioner is that, the petitioner/company is engaged in construction activities in and around the Coimbatore City. The petitioner/company purchased a land comprised in Survey Nos.525/1A part and 525/2B part, measuring an extent of about 41 cents and 220 sq. ft., and the same was registered as document No.3286 of 2006 in the office of the Joint II Sub-Registrar on 31.07.2006. The District Revenue Officer has collected a sum of Rs.6,45,880/- as stamp duty and the Joint II Sub-Registrar has released the document. Whileso, the 1st respondent has initiated the Section 47(A) proceedings and issued a letter dated 17.11.2009 to the petitioner/company, directing the petitioner/company to appear for enquiry on 01.12.2009. Pursuant to the said letter, the petitioner/company sent a letter dated 16.12.2009 to the 1st respondent, seeking information regarding the enquiry, however, the same was not considered and there was no response for the same from the 1st respondent. While such being the case, the 1st respondent passed the present impugned order dated 14.06.2010, directing the petitioner/company to pay a further sum of Rs.13,81,471/- as additional stamp duty within a period of 60 days, failing which 2% interest will be levied on the said amount from the 61st day. Hence, challenging the said order, the present Writ petition is filed.

3. The learned counsel for the petitioner submitted that, though the petitioner/company has filed this Writ petition challenging the order dated 14.06.2010 passed by the 1st respondent, however, he fairly submitted that, if the impugned order is set aside and the matter is remanded to the 1st respondent, it will adversely affect the interest of both the petitioner/company as well as the respondent. He further submitted that, as the petitioner has died, the legal heir(s) of the petitioner / substituted petitioner, had no knowledge about the said proceedings. Hence, he prays this Court may grant permission to the legal heir(s) of the petitioner / substituted petitioner to pay a sum of Rs.13,81,471/- without any further interest within the time that may be fixed by this Court and this Court may dispense with the interest prescribed by excluding the period during which the matter was pending before this Court.

4. The learned Special Government Pleader appearing on behalf of the respondents submitted that, after having taken up the value fixed by the 1st respondent by way of Suo Motu revision, by exercising the powers conferred under Section 47A (6) of the Stamp Act, the petitioner/company was called upon for enquiry by way of communication dated 17.10.2007 and another communication dated 27.11.2007 was also sent. Further the 1st respondent had sent a communication dated 09.09.2009, calling upon the petitioner/company to appear for enquiry on 16.09.2009 and another communication dated 17.11.2009 was also sent,

calling for a personal enquiry on 01.12.2009 and a final letter dated 15.02.2010 was sent, calling for personal enquiry on 09.03.2010. However, there was no objection received from the petitioner/company either by way of writing or by personal appearance, hence, the 1st respondent passed the final order dated 14.06.2010. He further submitted that, the notice has been served on the petitioner/company and after affording several opportunities to explain their side, the present impugned order was passed, hence, addressing the said order as illegal and arbitrary is not sustainable. Hence, he prayed for dismissal of the present Writ petition and he vehemently opposed for the prayer sought for by the petitioner/company.

5. Heard the arguments advanced by the learned counsel on either side and perused the materials available on record.

6. Admittedly, the petitioner/company registered the document on 31.07.2006 and thereafter, Section 47(A) proceedings were initiated against the petitioner/company and the same was concluded on 22.09.2006 by the District Registrar and thereafter, the 1st respondent has initiated proceedings on 17.10.2007 in terms of Section 47(A) of the Stamp Act and the present impugned order was passed. Though the learned Special Government Pleader for the respondents claims that, notice was served on the petitioner/company, however, no proof was produced before this Court to substantiate their contention. Mere assertion will not partake the character of proof.

7. In view of the above and considering the period of pendency of the present Writ petition before this Court, this Court is inclined to permit the petitioner's legal heir / substituted petitioner to pay the amount of Rs.13,81,471/- claimed as stamp duty under Section 47 of the Act within a period of four weeks from the date of receipt of a copy of this order. On receipt of the said payment, the 1st respondent is directed to close the revision without demanding further interest or any other amount.

8. With the above direction, this Writ Petition is disposed of. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

skt

To

1. The Inspector General of Registration cum
   Chief Revenue Control Officer,
   No.100, Santhome High Road,
   Chennai-600 028.

2. The Sub-Registrar,
   J-II, Raja Street,
   Coimbatore-641 001.

+1cc to Mr.R.Parthiban, Advocate SR. No. 17984
+1cc to Government Pleader SR. No.18565

W.P.No.19584 of 2010
and
W.M.P.No.1 of 2010

MT (CO)
PR (21/04/2022)