IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2022

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P. No.6232 of 2018

S.B.Harikrishnan ......Petitioner

vs.

1 The Tahsildar,
Perambur Taluk,
Chennai-11.

2. .... Respondents

Writ Petition filed under Article 226 of the Constitution of India, to issue an order or direction or Writ and in particular Writ in the nature of a Writ of Certiorari, Calling for the records connected with the issue of the order dated 13.01.2016 passed by the 3rd respondent quash the same.

For Petitioner : Mr. J.Hudson Samuel

For Respondents : Mr.Yogesh Kannadasan
Special Government Pleader

ORDER

The petitioner has filed this petition seeking to quash the order dated 13.01.2016 passed by the 3rd respondent.

2. The facts of the case are as follows:

The petitioner is an Educational Trust which runs a recognized CBSE School in the name and style of The Schram Academy. In the year 2014, since the petitioner wanted to construct an administrative office in the land belonging to the petitioner Trust, they approached CMDA for granting approval for the plans. As per development regulations, for granting plan approval, in public interest, the CMDA, had stipulated gifting of a portion of the land belonging to the petitioner for the street alignment and for raod and drain. Accordingly, the petitioner had executed a gift deed dated 12.02.2014 registered as Doc. No.1878 of 2014 in the SRO Ambattur, gifting the land with an extent of 630.76 sq. mt. to CMDA after paying concessional stamp duty of Rs.100/- and the consequent registration fee which was accepted by the 3rd respondent. Thereafter, the said registration was completed and the original documents was handed over to the CMDA. Subsequently, on 13.01.2016, the 3rd respondent passed the impugned order directed the petitioner to pay a sum of Rs.1,89,992/- as deficit stamp duty and a sum of Rs.27,150/- as deficit registration fee in respect of the said gift deed which was executed by the petitioner in favour of the CMDA. Challenging the said impugned order, the petitioner filed a present writ petition to quash the same.

3. The learned counsel for the petitioner submitted that the petitioner is an educational trust and they intend to give a portion of the land to the CMDA for public purpose as per development rules and regulations. The 3rd respondent, without giving any show cause notice or opportunity to the petitioner, passed the impugned order and the same has to be quashed.

4. The learned Special Government Pleader submitted that it is only a preliminary notice. The petitioner can very well canvass the issue before the authorities after filing their objection. If the petitioner approaches the authorities, the same will be considered in the manner known to law.

5. Heard the learned counsel for the petitioner and the learned Special Government Pleader appearing on behalf of the respondents and perused the materials available on record.

6. The facts of the case are not in dispute. Admittedly, the petitioner is an Educational Trust and they executed a gift deed in favour of the CMDA for public purpose as per development regulations and the same was registered vide document No.1878 of 2014 before the Sub Registrar, Ambattur on 12.02.2014. A perusal of the records and the impugned order would reveal that the proceedings were initiated for collection of deficit stamp duty under the Indian Stamp Act. However, the petitioner claims that as per the Government Order in G.O.Ms.No.56, Commercial Taxes and Registration (J1) dated 29.06.2017, the Government of Tamil Nadu remits the duty chargeable under the Indian Stamp Act, if the properties are given for any public purpose in respect of any instrument executed in favour of the Government or any local authority in the State of Tamil Nadu. The said G.O. Shall applicable to the petitioner in the case on hand and they were exempted for payment of registration fee and stamp duty.

7. In view of the above discussion, this Court directs the petitioner Trust to submit their objection before the second respondent within a period

of two weeks from the date of receipt of a copy of this order. Upon receipt of such objection, the second respondent shall consider the same and pass appropriate orders in terms of G.O.Ms.No.56 Commercial Taxes and Registration (J1), dated 29.06.2017 on merits in accordance with law, within a period of four weeks, thereafter.

8. With the above directions, the writ petition is disposed of. No costs.

22.06.2022

Index : Yes / No

Internet : Yes / No

Rli

To

1 The Inspector General of Registration,
No.100, Santhome HIgh Road,
Chennai-600 028.

2 The District Registrar,
Varadharajapuram, Ambattur, Chennai-600 053.

3 The Sub-Registrar,
Ambattur, Chennai-600 053.

M.DHANDAPANI, J.

Rli

W.P. No.11988 of 2016

Dated : 22.06.2022