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W.P.No.22034 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2022

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

W.P.No.22034 of 2015

and

M.P.No.1 of 2015

M/s.Larsen & Toubro Limited,
Mount Poonamallee Road,
Manapakkam, P.B.No.979,
TC-3, 5th Floor, C-Wing,
Chennai – 600 089.
Rep. by its Authorised Signatory.

... Petitioner

Vs.

1.Sub Registrar,
(District Registrar Cadre),
Kodambakkam,
37/6, Alagiri Nagar, V Street,
Vadapalani, Chennai – 600 026.

2.District Registrar (ADMN.),
Central Chennai,
Chennai – 600 014.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari to call for the records of the first respondent's order dated 18.02.2015 and quash the same.

For Petitioner : Mr.S.R.Raghunathan
Assisted by Mr.Manjunath Karthikeyan

For R1 and R2 : Mr.E.Vijay Anand
Additional Government Pleader



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ORDER

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This Writ Petition is directed against the order of the Sub Registrar, Kodambakkam, dated 18.02.2015 directing the petitioner to pay a sum of Rs.4,49,21,500/- towards registration charges.

2.The petitioner is the participant of a tender floated by M/s.Chennai Metro Rail Limited and an agreement was entered into between the Petitioner and M/s.Chennai Metro Rail Limited. The contract is a works contract with the value of several crores. The contract was registered. A notice was issued to the petitioner by the first respondent intimating the petitioner Company and the other consortium partners stating that a loss of Rs.4.49 Crores was caused to the Government Exchequer because of the alleged deficit registration fees paid for the registration of the Consortium Agreement. The Consortium Agreement was registered by paying stamp duty of Rs.100/-. The reply was sent by the petitioner on behalf of all parties. Thereafter, the impugned order came to be passed by the first respondent demanding an exorbitant amount of Rs.4,49,21,500/- towards deficit registration charges.



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3.This order demanding exorbitant amount of Rs.4,49,21,500/-

without holding an enquiry or even an opportunity to the petitioner before the order is passed. The impugned demand is in exercise of power under Section 80-A of the Registration Act, 1908. Section 80-A reads as follows:-

“80A. Recovery of deficit registration fees.— (1) Notwithstanding anything contained in section 80, if after the registration of a document, it is found that the fee payable under this Act in relation to that document has not been paid or has been insufficiently paid, such fee or the deficit, as the case may be, may, on a certificate of the registering officer, be recovered from the person who represented such document for registration under section 32, as an arrears of land revenue:

Provided that no such certificate shall be granted unless inquiry is made and such person is given an opportunity of being heard:

Provided further that no such enquiry shall be commenced after the expiry of such period, after the date of the registration of the document, as may be prescribed.

(2) The certificate of the registering officer under sub-section (1) shall, subject only to appeal under sub-section (3), be final and shall not be called in question in any Court or before any authority.

(3) Any person aggrieved by a certificate of the registering officer under sub-section (1), may appeal to the Registrar if it is a certificate of the Sub-Registrar, or to the Inspector-General of Registration if it is a certificate of the Registrar. All such appeals shall be preferred within such time, and shall be heard and disposed of in such manner, as may be prescribed.”

4.The statute specifically provides for an enquiry after giving an opportunity of being heard to the person from whom the deficit registration charge is sought to be collected. The statute provides further that the amount



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due is recoverable as arrears of land revenue. When the statute prescribes a procedure to give an opportunity of being heard to the person who will be aggrieved by the order, the impugned order without a prior notice or without an enquiry is in violation of principles of natural justice. Hence, this Court is of the view that the impugned order is liable to be quashed.

5.In the light of the above discussion, this Writ Petition is allowed. The impugned order dated 18.02.2015 passed by the first respondent is quashed. However, liberty is given to the first respondent to pass fresh orders after giving an opportunity to the petitioner and holding an enquiry as contemplated under Section 80-A of the Registration Act, 1908, within a period of 12 weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

07.11.2022

srm

Internet : Yes

Index : Yes / No

Speaking order / Nonspeaking order



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To

- 1.The Sub Registrar,
(District Registrar Cadre),
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S.S. SUNDAR, J.

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