IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.03.2022

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

W.P. No.28101 of 2017
and
W.M.P.Nos. 30194 & 30195 of 2017

M/s. Annamalaiyar Garment Dyeing,
a Partnership Firm,
represented by its Partner N.Ramaiyan,
No.59, Maniyakaranapalayam,
Kanjipuram, Nallur (P.O.),
Tirupur.

... Petitioner

Versus

1. The Inspector General of Registration/
The Chief Controlling Revenue Authority,
No.100, Santhome High Road,
Santhome, Chennai-600 028.

2. The District Registrar,
Erode District,
1/44C, Periasamy Middle School Street,
Ammapettai-638 311.

3. The Sub-Registrar,
Perundurai,
102/105, Agrahara Veethi,
Perundurai – 638 052.

... Respondents

PRAYER : Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the proceedings of the 3rd respondent dated 07.03.2017 and the consequential certificate dated 18.04.2017 pertaining to document No.P57/2016 and quash the same and consequentially direct the 3rd respondent to register Document No.P57/2016 pending on his file and return the same to the petitioner.

For Petitioner : Mr.K.J.Parthasarathy

For Respondents : Mr.V.Jeevagiridharan,
Addl. Govt. Pleader

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O R D E R

This Writ Petition has been filed challenging the notice issued by the 3rd respondent directing the petitioner to pay deficit stamp duty for the lease deed presented for registration.

2. The grievance of the petitioner is that, earlier, the petitioner entered into a lease agreement with SIPCOT for development of industries in the land belongs to SIPCOT. While submitting the lease agreement for registration, the impugned demand notice was issued by the 3rd respondent directing the petitioner to pay registration charges for the water charges payable by the petitioner to SIPCOT, apart from deficit stamp duty, totally a sum of Rs.14,22,931/-. According to the petitioner, he is ready and willing to pay deficit stamp duty. So far as the registration charges levied for the water charges payable by the petitioner is concerned, it cannot be taken into consideration for the purpose of collecting registration charges. The learned counsel appearing for petitioner relying upon the latest circular issued by the 1st respondent, submitted that, the water is not an immovable property for the purpose of levying stamp duty and it cannot be treated as a part of rent for the purpose of charging stamp duty. He would also submit that the 3rd respondent cannot insist for registration charges for the water charges payable by the petitioner.

3. Mr. V.Jeevagiridharan, learned Addl. Government Pleader appearing for respondents, would submit that, the petitioner, being a lessee as per the lease agreement executed between the petitioner and SIPCOT, the SIPCOT has supplied huge quantity of water, for which, the petitioner has to necessarily pay water charges to the SIPCOT. Hence, the petitioner has to necessarily include the amount payable for the water availed by them and to pay stamp duty for the same. The learned counsel would further submit that, the circular issued by the 1st respondent only subsequent to the year 2013, and it will apply retrospectively. Hence, the petitioner cannot rely upon the circular issued by the 1st respondent.

4. Heard and considered the rival submissions made by learned counsel appearing for both sides and perused the records carefully.

5. The dispute is relating to payment of registration charges for the water charges payable by the petitioner to the SIPCOT. Earlier, when there are number of disputes arises between lessees and the SIPCOT, the SIPCOT made a request to the 1st respondent stating that, levying of registration charges for

the water supplied by SIPCOT cannot be treated as immovable property and no registration charges can be levied for the water charges. Based on that request, the 1st respondent has issued a circular vide Letter No.3759/J1/2015-2, dated 24.05.2019 stating that, the water is not an immovable property and the stamp duty cannot be levied. The relevant portion of circular reads as follows :-

> "It is therefore instructed that in respect of lease deeds and modified lease deeds executed by the SIPCOT, the Registering Officers should not treat the water as an immovable property for the purpose of levy of stamp duty and also the GST payable by the lessee cannot be treated as part of the rent for the purpose of chargeability of stamp duty and the deed has to be classified under Section 6 and Article 35 of Indian Stamp Act, 1899."

6. In view of the above circular, the petitioner is not liable to pay the registration charges for the water supplied by SIPCOT. Hence, the 3rd respondent cannot demand registration charges from the petitioner for water charges. Now, it is stated that, in pursuant to the order passed by this Court, the petitioner has already deposited deficit stamp duty. So far as disputed registration charges, the petitioner has given a bank guarantee and the document was also returned to the petitioner. Considering those circumstances, this Court is of the view that the 3rd respondent cannot demand registration charges for the water supplied by the SIPCOT, hence, the impugned demand notice is liable to be set aside. Accordingly, this Writ Petition stands allowed and the demand notice issued by the 3rd respondent is set aside and the bank guarantee should be returned to the petitioner. No costs. Consequently, the connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration/
The Chief Controlling Revenue Authority,
No.100, Santhome High Road,
Santhome, Chennai-600 028.

2. The District Registrar,
Erode District,
1/44C, Periasamy Middle School Street,
Ammapettai-638 311.

3. The Sub-Registrar,
Perundurai,
102/105, Agrahara Veethi,
Perundurai - 638 052.

+2ccs to Mr.K.J.Parthasarathy, Advocate, S.R.No.17686

+1cc to the Special Government Pleader, S.R.No.18137

W.P.No.28101 of 2017

SKM(CO)
SU(13/05/2022)