BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.11.2022

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THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.P.(MD)No. 1995 of 2017
and
W.M.P.(MD)No. 1648 of 2017 & 11577 of 2018

K.Cinthanai Selvam,
District Registrar, (Administration),
(AIG – Grade) (Extension),
Trichirappalli. .... Petitioner

Vs.

1. The Secretary to Government,
Commercial Taxes and Registration Department,
Government of Tamil Nadu,
Fort Saint George, Chennai – 9.

2. The Inspector General of Registration,
100, Santhome High Road, Santhome,
Chennai.

3.The Deputy Inspector General of Registration,
Salem Collectorate complex,
Salem. .... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of ***Writ of Certiorari,*** or any other appropriate Writ or order or direction in the nature of Writ, to call for records relating to the impugned Charge Memo No.43333/V3/2016 dated 03.01.2017 issued by the 2nd respondent and quash the same.

For Petitioner : Mr.P.Babu

For Respondents : Mr.C.Baskaran,
Government Advocate (Civil Side)

ORDER

This Writ Petition has been filed for issuing ***Writ of Certiorari,*** to quash the Charge Memo No.43333/V3/2016 dated 03.01.2017 issued by the 2nd respondent.

2. In the impugned charge memo, charges were issued against the petitioner, stating that the petitioner, while registering Document No.636 of 2010, which is a partnership retirement deed, the petitioner without ascertaining the assets, liabilities and without obtaining balance sheet, has registered the document and has caused loss to the Government to the tune of Rs.1,29,002/-. This lapse was pointed out by the audit. Further, the petitioner was not allowed to retire, since three charge memos were issued against the petitioner and the charges were pending at the time of superannuation. After attaining superannuation, the respondents have issued the impugned charge memo, dated 03.01.2017, as per the Auditor General Report No.LAR No.20-23/2011-12/99.

3. The contention of the petitioner is that the first charge memo, dated 10.09.2014 was challenged before this Court in W.P.No.28398 of 2014. After considering the contention of the petitioner, the Principal Bench of this Court, vide order, dated 19.06.2018 allowed the writ petition and quashed the charge memo. Now, the petitioner is before this Court for quashing the fourth charge memo.

4. The learned counsel appearing for the petitioner submitted that the petitioner being Sub-Registrar is a having quasi-judicial power. The decision taken under the power of quasi-judicial authority cannot be considered as misconduct and disciplinary proceedings cannot be initiated. Therefore the very basis of the charge itself is on a wrong basis.

5. The second contention that was put forth by the petitioner is that the impugned charge memo was issued after attaining superannuation, even though the petitioner was not allowed to retire, based on the earlier charge memos, the respondents ought not to have issued this charge memo after attaining superannuation. Primarily, this argument may sound as if the petitioner is right, but the Discipline and Appeal rules had provided power to the disciplinary authority to initiate proceedings within five years from the date of retirement. Hence, this Court is not entertaining such plea.

6. The 3rd contention that was raised by the petitioner is that admittedly, the document is a partnership document, where one of the partner was retiring and the said partner was given all the eligible benefits that is approved to the partner. For registering the retirement deed, the balance sheet or the entire assets and liabilities of the partnership firm is not necessary. The assets which are assigned to the retiring partner alone will be liable for stamp duty and registration fees. Moreover, maximum rate of Stamp Duty and Registration Fee is fixed as per Indian Stamp and Registration Act. The said stamp duty and registration fees are not valued at the value of the assets assigned to the retiring partner. Therefore, base of the charge itself is illegal and not sustainable.

7. In view of the aforesaid two reasons, this Court is inclined to allow the writ petition and the impugned Charge Memo No.43333/V3/2016, dated 03.01.2017 issued by the 2nd respondent is quashed.

8. Accordingly, this writ Petition is allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
Internet : Yes
ksa

17.11.2022

To

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2. The Inspector General of Registration,
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   Chennai.

3.The Deputy Inspector General of Registration,
   Salem Collectorate complex, Salem.

<u>S.SRIMATHY, J</u>

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Order made in
W.P.(MD)No.1995 of 2017

17.11.2022