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Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on :21.07.2023

Pronounced on :17.08.2023

Coram:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 2023

Crl.R.C.No.1191 of 2023:

R.S.Rajan
Formerly District Registrar
Chengalpattu,
Residing at No.9, 10th Street,
H Block, Anna Nagar,
Chennai 600 040.

.. Petitioner/Accused 1

/versus/

State rep.by
The Inspector of Police,
Vigilance and Anti Corruption
City Special Unit-III,
Chennai-16.

.. Respondent/Respondent



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

WEB COPY

Prayer: Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., against the judgment dated 28.09.2022 made in Crl.M.P.No.437 of 2021 in C.C.No.1 of 2021 on the file of the Special Court for the Cases under Prevention of Corruption Act at Chennai.

For Petitioner :Mr.V.Vijaya Shankar

For Respondent :Mr.S.Udaya Kumar
Govt.Advocate (Crl.Side)

Crl.O.P.No.15049 of 2023:

Sudha Mallya

.. Petitioner/Accused 1

/versus/

State rep.by

The Additional Superintendent of Police,
Vigilance and Anti Corruption
City Special Unit-III,
Chennai-16.

.. Respondent/Respondent

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records in C.C.No.1 of 2021 pending on the file of the Special Court for the Cases under Prevention of Corruption Act at Chennai and quash the same in so far as petitioner's concerned.

For Petitioner :Mr.R.John Sathyam, Senior Counsel for



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Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

Mr.R.Sagadevan

For Respondent :Mr.S.Udaya Kumar
Govt.Advocate (Crl.Side)

COMMON ORDER

Crl.R.C.No:1191 of 2023 and Crl.O.P.No:15049 of 2023 are petitions to discharge and to quash respectively, preferred by R.S.Rajan (A-1) and Sudha Mallya (A-2) who are the accused in C.C.No:01 of 2021, which is pending on the file of the Special Court for the Cases under Prevention of Corruption Act, Chennai.

2. On the petition by one A.G.Gopal before the Hon'ble High Court, Madras in Crl.O.P.No.18563 of 2016, criminal case was registered and after completion of investigation done by the Additional Superintendent of Police, Vigilance and Anti-Corruption, Final Report has been filed and taken cognizance by the Court.



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

WEB COPY

3. The gist of the Final Report reads as below:-

The accused A-1 being a Public Servant by virtue of her official capacity as Deputy Inspector General of Registration, Chennai Zone, during the period 2014 and being the appellate authority to fix the guideline value for the lands located in Chennai North, Chennai South, Chennai Central, Kancheeruram and Chengalpattu Registration Districts, instead of fixing the guideline value as Rs.1000/- for the layouts of VIP City and Vanthanam Nagar of Uthiramerur Village, has fixed the guideline value as Rs.500/- for VIP City layout and Rs.400/- for Vanthanam Nagar Layout and caused loss of Rs.1,33,05,593/- with respect of VIP City and Rs.92,82,465/- with respect of Vanthanam Nagar, totally caused loss of Rs.2,25,88,058/- to the Government exchequer by failing to follow the procedures laid down by the Inspector General of Registration, Chennai. By which the accused has caused revenue loss to the Government in exercise of her official act by holding office, abusing her official position and by corrupt or illegal means without following the procedures laid down by the Inspector General of Registration, Chennai, obtained pecuniary advantage from the buyers without any public interest, thereby she had committed offence punishable under Section 13 (2) r/w



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

13(1)(d) of Prevention of Corruption Act, 1988.

4. In the course of transaction, the accused A-2 being a public servant by virtue of his official capacity in conniving with the accused-1 knowing well that he has no power to give any recommendation for the fixation of guideline value, dishonestly forwarded his report on Vanthanam Nagar Layout file in C.No.4960/A2/2014, dated 17.11.2014 along with his recommendation to re-fix the guideline value to Rs.350/- per sq.ft. (who has formerly fixed the guideline value for Vandanam Nagar plots as Rs.1000/-) to A-1 DIG, if Registration, Chennai Zone, who is the next appellate authority, in order to help the third parties by violating the rules and regulations with intention to sustain the wrongful loss to the Government and for obtaining pecuniary advantage for themselves and the third parties by fixing the guideline value of Rs.400/- on appeal, thereby he had committed offence punishable under Section 13 (2) r/w 13(1)(d) of Prevention of Corruption Act, 1988.



CrI.R.C.No.1191 of 2023
& CrI.O.P.No.15049 of 2023
and CrI.M.P.No.9391 of 202316

WEB COPY

5. In the course of same transaction, A-1 and A-2 conspired together and committed criminal breach of trust as A-2 without having power to give any recommendation for the fixation of guideline value dishonestly forwarded his report with regard to Vanthanam Layout file in C.No.4960/A2/2014 dated 17.11.2014 along with his recommendation recommending to re-fix the guideline value as Rs.350/- per sq.ft. (who has formerly fixed the guideline value for the Vandanam Nagar plots as Rs.1000/-) to A-1, the DIG of Registration, Chennai Zone, who is the next appellate authority, by conniving with Accused-1 in order to help the third parties by violating the rules and regulations with intention to sustain wrongful loss to the Government and for obtaining pecuniary advantage for themselves and the third parties by fixing the guideline value of Rs.400/- by A-1 on appeal thereby, A-1 and A-2 have committed the offences punishable under Sections 120(B), 167 & 409 IPC.

6. The Final Report is filed on the premise that the in respect of survey numbers in which the two layouts namely 'VIP City' and 'Vandanam Nagar' situated at Uthiramerur Taluk, the Government has already fixed the guideline



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

value for the purpose of registration and collection of Stamp Duty. The SRO or District Registrar or the Deputy Inspector General (Registration) in the Registration Department have no power to make downward fixation of the guideline value already fixed. While so, these two accused, who were serving as District Registrar and DIG (Registration) knowing well that the guideline value already fixed for the neighbouring land at Rs.1000/- sq.ft, had treated these land as guideline value not determined and fixed it at lower rates causing revenue loss.

7. The prosecution case is that the petitioners ought to have followed the guidelines issued by the Inspector General of Registration in the circular No.43413/L1/2010 dated 12/9/2011 and the classificatory letter dated 26/03/2012. Instead of following the said instructions and in violation of the instructions ignoring the guideline value fixed for the same survey numbers with different sub division or the survey numbers of the neighbouring land for similar category, knowingly fixed the guideline value lesser than the value already fixed by the High Level Committee for the neighbouring land. As if it is, the guideline value for the property at VIP City and Vandanam Nagar sought to be registered was not fixed



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

and proceeded to collect lesser stamp duty.

8. The records relied indicates that, the survey numbers in which these two Layouts located were agricultural land newly converted to residential plots. The Government had not fixed the guideline value for these survey numbers as residential plots. Guideline value for some of the neighbouring lands e.g: (few sub divisions of S.Nos.107 and 109) which were converted into residential plot prior to 2011, the Committee has fixed the guideline value.

9. The circulars of the Registration Department, instructs the SRO, District Registrar and the DIG of Registrations, who are authorities in hierarchy to decide the value of the property for the purpose of collecting stamp duty and for the exercise of power under Section 47 of the Registration Act to the effect that while determining the guideline value of a property, they should go by the guideline value already fixed and they have right to revise only upward due to efflux of time or surge in the price. They do not have the power to make downward revision. In case of land converted from agricultural use to residential use, and no



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

guideline value fixed, then the value of the neighbouring lands of same classification has to be taken into consideration. If no land of same classification is available in the neighbourhood, to determine the guideline value, then the highest guideline value in that village or the market value may be taken into consideration for fixation of value to collect stamp duty. Letter of IG(Reg) dated 26/03/2012 and the circular dated 28/03/2012 followed by this letter instructs how the stamp duty to be collected, in case of land, guideline not so far fixed. The Central Valuation Committee which met on 24/01/2014 had taken a decision to defer the revision of Market Value Guidelines for the calendar year 2014 and issued procedures to be followed by the District Registrars, while fixing market value for a layout or a property which has converted into house sites.

10. The procedure for District Registrars as laid down by the Central Valuation Committee in its meeting dated 24/01/2014 reads as below:-

Procedure to be followed by DRs while fixing market value for a layout or a property which has converted into house site:

1. District Registrar should conduct field inspection in person and has to enquire about market value prevailing in the area where the property in question of fixation lies and he has to



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Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

fix the market value as per enquiry.

2. The market value fixed by District registrar should, at any reason, not below the highest site value available in surroundings as per FMB/Village map.

3. If the value fixed by the District Registrar is not coincide with any one of the category that has been approved by the District level Valuation sub-committee, then DR may ask the DIG concerned to create a new category and the DIG has to issue relevant order within 15 days.

4. If the party is aggrieved by the value fixed by the District Registrar, appeal may be preferred to concerned DIG.

11. The survey numbers in which these two layouts located is a part of larger extent of land, which was initially agricultural land and a part of it already converted into residential plots and got registered. As far as layout in the name 'VIP City' land in total measuring 12.32 acres of agricultural land in S.Nos: 109/2A, 2B, 2C, 2D, 2E, 2F, 115/1A,1A2B,1A3,1A4,1A5,1A6, 1A8,1A9,1A10, 1A11, 1A12, 1A13, 1A15, 1A16, 1A17,1A18, 1B, 1B3, 155/1, 2A, 2B, 2C were converted into 218 residential plots. During the year 2014, documents for registration presented disclosing the value for ascertaining stamp duty as Rs. 100/-



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

per sq.ft. The Sub Register Office kept registration pending stating the guideline value for these survey numbers not fixed. He therefore fixed the value at Rs.300/- and forwarded it to the District Registrar. The District Registrar has fixed the value at Rs.1000/- sq.ft. On further appeal to the DIG(Regn.) the value fixed at Rs.500/- classifying the land under the NHS (New House Site) II – Type I. On further appeal, the District Revenue Officer (stamps) determined the value as Rs.350/- and the IG (Registration), took up the matter *suo motu* and confirmed the order of the DRO (stamps). Thus, as on date the purchaser had taken up the matter of fixation of value and finally determined as Rs.350/- per sq.ft. The purchaser has also paid the difference and got his document. The *suo motu* revision order passed by IG(Regn) is dated 11/07/2019.

12. Similarly, for Vandanam Nagar layout 155 plots development carving out from the agricultural land in S.No's: 71/1C1, 171/1C2, 171/1C3, 171/1B, 1A, 107/1A, 107/1B, 107/1C, 107/2, 170/2A, 170/2B, 170/1B1, 170/1B2, 170/3A, 170/3B, 170/3C. The sale deeds presented showing the value as Rs.100/- per sq.ft. The SRO kept the document pending. Forwarded the document for fixation of



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

value to the District Registrar, Mr.Rajan (A-2). He had fixed Rs.1000/- per sq.ft taking note of the adjoining lands where the guideline value fixed as Rs.1000/-. The land owners preferred appeal to the DIG (Regn). The second accused Mrs.Sudha Mallya, after getting reports from DRO(stamps), had fixed the value at Rs.400/- vide her proceedings dated 13/12/2014. On 07/05/2021, in the appeal preferred by one Vanaja, a purchaser of the plot in Vandanam Nagar layout, the IG (Registration) had determined the value of the plot at Rs.500/- on par with the other plots in Vandanam Nagar, where the value of Rs.500/- accepted by the land owners and paid the stamp duty. In this order, the IG (Registration) had taken note of the order passed by his predecessor in his suo motu revision petition in respect of VIP City fixing the value at Rs.350/- per sq ft and made a remark that Vandanam Nagar which is located behind VIP City and the rest of the land surrounding Vandanam Nagar still remain as agricultural land.

13. The decision by these accused, determining the value on the presumption that for the first time on conversions of agricultural land into residential plots, there is no guideline value available to determine the value and



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

the alternate view that the value of Rs 1000/- fixed for the neighbourhood land apply to these land also been subjected to appeal and revision.

14. The charge sheet says that for S.No:109 and its sub divisions the guideline value fixed at Rs.1000/- and for S.No:115 and its sub divisions, the guideline value fixed at Rs.700/- as on 01/04/2012 and duly implemented in TN Reginet. Likewise in case of 'VIP City' layout which is in the Survey numbers 107 and its sub divisions, the guideline value fixed as Rs.1000/- and duly implemented in TN Reginet. Therefore, the District Registrar and the DIG (Reg) ought not to have fixed the value downward.

15. However, it the appeal proceedings, the department on due enquiry had held that the land in layout are converted into new house sites and the value not determined earlier. Taking into inputs collected, the IG (Registration) the highest authority in the hierarchy, had determined the value for VIP city at Rs.350/- and for Vandanam Nagar at Rs 500/-.



CrI.R.C.No.1191 of 2023
& CrI.O.P.No.15049 of 2023
and CrI.M.P.No.9391 of 202316

WEB COPY

16. Erroneous understanding of the circulars and guidelines *per se* will not be a reason to presume culpable mental state under Prevention of Corruption Act. The abuse of power leading to pecuniary loss to the State or gain to individual ought to *prima facie* available. In this case, the Final Report filed on 17/12/2020. By the time the Final Report filed, the order of the IG(Regn.) in his *suo motu* revision regarding the value of VIP city had been passed. In his order dated 11/07/2019 the value of the land in S.No.109 and its sub divisions, 115 and its sub divisions, the IG (Reg) has determined the guideline value as Rs.350/- for the purpose of collecting stamp duty. Likewise, in respect of Vandanam Nagar layout, falling under S.No:107 and its subdivision, 170 and its subdivisions; S.No:171 and its subdivisions, the IG of Registration has fixed the value as Rs.500/- per square feet and this order is dated 07/005/2021.

17. The subsequent orders in the adjudication proceedings for the same set of facts and evidence have direct effect in the criminal prosecution which requires high standard of proof. In the light of the proceedings dated 17/12/2019 and 07/05/2021 by the IG (Registration) in their capacity as appellant authority



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

and revisional authority, the Department had implicitly indicates that the guideline value of the properties of these two layouts (VIP city and Vandanam Nagar) for collecting stamp duty was not determined at the time of presenting the sale deeds for registration. Now, by virtue of the adjudication order, it is settled that the guideline value of these properties is not Rs.1000/- per sq.ft as mentioned in the final report. It is only Rs.350/- and Rs.500/- respectively. The proceedings of IG (Regn.) is unimpeachable evidence of sterling quality. Hence, the ingredients required for prosecuting these two petitioners is totally wiped out by the outcome of the adjudication.

18. The allegation that by not collecting stamps duty fixing the value at Rs.1000/- per sq. ft for the land in these two layout leading to pecuniary loss to the State has no legs to stand any further. The dishonest intention to make any pecuniary gain for themselves or for others by abuse of power as public servants also ill-found. The Criminal law which was set into motion at the instance of an disgruntled person bound to be quashed for the facts narrated above.



Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

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19. This Court is of the view that if the prosecution allowed to continue to reach its logical end, it will be abuse of process. To force the petitioners to undergo the ordeal of criminal prosecution, which has lost its legs to stand, in view of the subsequent adjudication will be unjust.

20. Hence, Crl.R.C.No.1191 of 2023 and Crl.O.P.No.15049 of 2023 are allowed. All further proceedings in C.C.No.01/2021 is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

17.08.2023

Index:yes

speaking order/non speaking order

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To:

- 1.The Special Court for the Cases under Prevention of Corruption Act, Chennai.
- 2.The Additional Superintendent of Police, Vigilance and Anti Corruption, City Special Unit-III, Chennai.
- 3.The Inspector of Police, Vigilance and Anti Corruption, City Special Unit-III, Chennai.
- 4.The Public Prosecutor, High Court, Madras.



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Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 202316

DR.G.JAYACHANDRAN,J.

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delivery Common Order made in
Crl.R.C.No.1191 of 2023
& Crl.O.P.No.15049 of 2023
and Crl.M.P.No.9391 of 2023

17.08.2023