IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.19179 of 2023
and
WMP No.18415 of 2023

Mahindra World City Developers Limited
Mahindra World City Sub (PO)
Chengalpattu Taluk
Chengalpattu District 603 004. .. Petitioner

vs.

1.The District Registrar
Registration Department
Chengalpattu.

2.The Sub-Registrar
Office of Sub-Registrar
Joint II, Chengalpattu.

3.P.Saravanan .. Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records of the 1st respondent pertaining to Na.Ka.No.6871/B4/2022 dated 10.4.2023 and quash the same and consequently direct the 2nd respondent herein to register the Lease Deed dated 02.09.2022 bearing pending Document No.P/Chengalpattu Joint II/274/2022 without insisting on any Stamp Duty.

For Petitioner : Mr.Srinath Sridevan
Senior Counsel
for Ms.Aishwarya S.Nathan

For Respondents : Mr.S.Ravichandran
Additional Government Pleader
for R1 and R2

O R D E R

The impugned proceedings of the 1st respondent dated 10.04.2023 has been put to challenge by the petitioner and the petitioner has also sought for a consequential direction to the 2nd respondent to register the lease deed executed by the petitioner in favour of the 3rd respondent.

2.Heard Mr.Srinath Sridevan, learned Senior Counsel for the petitioner and Mr.S.Ravichandran, learned Additional Government Pleader for respondents 1 and 2.

3.Considering the fact that the impugned proceedings of the 1st respondent goes against the earlier order passed by this Court in WA.Nos.1940 and 2058 of 2019, dated 22.07.2019, the main writ petition itself is taken up for final hearing.

4.The case of the petitioner is that they are a developer in Special Economic Zone (SEZ). The petitioner had developed residential apartment complex and they execute lease deeds in favour of the buyers since execution of a sale deed is prohibited by the provisions of Special Economic Zones Act, 2005. The 3rd respondent approached the petitioner and expressed his willingness to acquire a plot and accordingly, the petitioner entered into lease deed with a private respondent and the document was presented before the 2nd respondent on 02.09.2022 with the registration fees. According to the petitioner, they are entitled for exemption from stamp duty by virtue of Section 3(3) of the Stamp Act, 1899. The document was executed and a pending number was given and there was a delay in registering the document and releasing the same.

5.The petitioner therefore filed a writ petition before this Court in WP.No.3268 of 2022 for a mandamus directing the respondents 1 and 2 to complete the registration and to release the documents. When the writ petition came up for hearing, the impugned proceedings of the 1st respondent was handed over and the same has been put to challenge in the present writ petition.

6.On carefully going through the impugned proceedings of the 1st respondent, it is seen that the 1st respondent has come to a conclusion that the petitioner is not entitled for the exemption from stamp duty since the petitioner has not furnished the relevant documents.

7.On carefully going through the records, it is seen that the Government of India, Ministry of Commerce and Industry, through letter dated 25.04.2023 have given their approval by recognising the petitioner as the co-developer for providing infrastructure facilities in the IT Special Economic Zone at Chennai. Even on an earlier occasion, the lease deed that was presented for registration was refused to be registered on the ground that the petitioner is not entitled for the exemption u/s. 3(3) of the Stamp Act, 1899. This was put to challenge by the petitioner in WP.Nos.211 of 2016 and 31022 of 2018. The writ petitions were allowed and the same became a subject matter of challenge in WA.Nos.1940 and 2058 of 2019. The Registration Department had in fact challenged those orders. The matter was once again considered by the Division Bench and it was held as follows:

> *9. The exemption provided under Sub-section (3) of Section 3 of the Indian Stamp Act,1899, is clear and in harmony with the provisions of the Special Economic Zones Act,2005, which clearly stipulate and grant such exemption on the property developed by the developers or co- developers within the specified SEZs.*
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> *10. It is the geographical location of the property, which is relevant, and the instruments of having ownership rights or lease rights on such property are entitled for exemption from Stamp Duty in such cases. The material sought to be relied upon by the learned Special Government Pleader, appearing for the Appellants-State viz., the alleged 'Clarification' or the 'Guidelines' for Development will, in no way, defeat the exemption from Stamp Duty in the present case.*
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> *11. Concedingly, the lessee has not utilised the property for any purposes, contrary to the purposes of the Special Economic Zones Act,2005. It is not even the case of the Appellants-State before us or it was so before the learned Single Judge either. So long as the lease or any other conveyance attracting Stamp Duty is within the specified geographical limits of the Special Economic Zone, we fail to understand as to why Section 3 (3) of the Indian Stamp Act,1899, will not stand attracted. The Stamp Duty is*

payable on the Conveyance Deed and not on the nature of User, to which the property is sought to be put.

12. In view of the admitted facts before us that the property in question is admittedly located within the Non-processing zone of the Special Economic Zone in question, the learned Single Judge, in our considered opinion, was perfectly justified in upholding the exemption in favour of the writ petitioners. Therefore, we find no merit in these Appeals and they are liable to be dismissed.

8.In the light of the above order passed by the Division Bench, there is absolutely no ground for the 1st respondent to refuse registration of the documents presented by insisting for the payment of the stamp duty. Such insistence for payment of stamp duty runs contrary to the earlier order passed by this Court. The lis was between the very same parties and hence, the 1st respondent ought not to have issued the impugned proceedings stating that the petitioner is not entitled for the exemption u/s. 3(3) of the Stamp Act. It only shows that the respondent did not apply his mind and did not take into consideration the earlier order passed by this Court.

9.In the light of the above discussion, this Court has absolutely no hesitation to interfere with the impugned proceedings of the 1st respondent dated 10.04.2023 and the same is hereby quashed. There shall be a direction to the 2nd respondent to entertain the lease deeds presented for registration without insisting for the stamp duty. If the document is otherwise in order, the same shall be registered and the same shall be released to the petitioner.

10.In the result, this writ petition is allowed in the above terms. No costs. Consequently, connected miscellaneous petition is closed.

27.06.2023
2/2

Index : Yes/No
Internet : Yes/No
Neutral Citation Case: Yes/No
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To

1.The District Registrar
Registration Department
Chengalpattu.

2.The Sub-Registrar
Office of Sub-Registrar
Joint II, Chengalpattu.

N. ANAND VENKATESH, J.
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