IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.04.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.28346 of 2014
and
M.P.1 of 2014

M/s.Tia Construction Company Pvt. Ltd.,
Tanna House, 2nd Floor, 11A,
Nathalal Parekh Marg,
Colaba, Mumbai-400001.
Authorised Signatory by Arvind Gandhi ...Petitioner

-Vs-

1. The District Revenue Officer (Stamps),
   Office of the District Collectorate,
   Coimbatore

2. The Sub Registrar,
   Coonoor.

3. The Inspector General of Registration,
   Santhome, Madras-28. ...Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of Certiorari, to call for the records of the 1st respondent in Mu.Pa.590/2014 dated 11.8.2014 and quash the same as illegal, incompetent and unconstitutional.

For Petitioner	: Mr.V.Srimathi
For Respondents (for R1 & R3)	: : Mr.Abhishek Murthy, GP

ORDER

The notice dated 11.08.2014 issued by the first respondent District Revenue Officer (Stamps) is under challenge in the present writ petition. The petitioner is a Private Limited company registered under the provisions of the companies Act.

2.The petitioner states that he had purchased a property from Tmt.Zerina Dorab Burns at Coonoor. She is the daughter of Sri.P.M.Kanga, a lawyer from Bombay. The property originally belonged to Mrs.Mehr Bai, Nasser Vanji Patel, pursuant to the purchase on 24th May 1954. She had conveyed the property to Durab P.M.Kanga and Deena Kanga on 24th of November 1965. On the death of Mrs.Deena Kanga on 06.07.1974, the property devolved on Sri.P.M.Kanga and her daughter, Mrs.Zerina Dorab Burns, vendor of the petitioner. Sri.P.M.Kanga died on

15.11.1993. He had executed a will on 29.08.1992 and by this document, the property in T.S.No.A-14/5/1 measuring 1.61 7/16 and 14/8/1 measuring 1.39 7/16, Coornoor, Ooty devolved absolutely on vendor of the petitioner.

3.The properties were sold to the company for Rs.13 Crores. The sale was registered in the office of the Sub-Registrar Coonoor on 03.08.2012. The Coonoor Municipality had mutated the records in the name of the company on 24.12.2012. Patta was also issued by the Revenue Department in Patta No.58 for the agricultural land and Patta No.83 for the Housing site. Soon on registration of the instrument, the usual procedural formalities of inspecting the property and assessing the value were done through the PWD Department. The PWD Engineer had assessed the value of the building at a much lesser value and appears to be at Rs.27 Lakhs. At that point of time the impugned notice had been issued by the first respondent asking the petitioner to submit their objections and relevant documents. The learned Government Advocate appeared on behalf of the respondents made a submission that there was an audit objection regarding deficit of stamp duty paid by the petitioner and in this regard, the District Revenue Officer (Stamps) issued the impugned notice providing an opportunity to the writ petitioner to place all the documents for adjudication and consideration.

4.Instead of participating in the process of inquiry, the petitioner has chosen to file the present writ petition challenging the notice providing an opportunity to the writ petitioner to submit all their documents. Whenever, an audit objection is raised regarding the deficit of stamp duty to be paid by the persons who all are presenting documents for registration, then an inquiry is to be conducted by providing an opportunity. Such an opportunity has been provided to the writ petitioner and therefore, the petitioner has to avail the said opportunity for the purpose of defending their case. The learned counsel for the petitioner made a submission that the petitioner submitted their objections to the authority competent/first respondent.

5.No writ against an inquiry notice is to be entertained by the High Court in a routine manner. Such an inquiry must be allowed to be conducted by following the procedures as contemplated under the Act and rules. Intermittent interventions by the High Courts are not desirable since it would cause prejudice to the interest of the state in collecting its revenue.

Even if certain valid grounds are raised by the persons, all those grounds are to be adjudicated by the competent authorities for the purpose of considering the issues and to determine the facts and circumstances.

6.That apart, even after passing of final order by the first respondent, an appeal is contemplated. The appellate remedy is also efficacious and thus, the said remedy is also to be exhausted by the aggrieved persons before approaching the High Court. The factual findings of the original authority and the appellate authority are of greater assistance to the High Court for the purpose of exercising the powers of judicial review under Article 226 of the Constitution of India. In the absence of any such conclusive factual finding, the High Court may not be in a position to form an opinion with reference to the issues raised between the parties. Thus, the importance of exhausting the appellate remedy at no circumstances be undermined and further the right of appeal need not be denied to the aggrieved persons which is a valuable right.

7. A writ against a Show Cause Notice or an Inquiry Notice is entertainable only on limited grounds. If the notice has been issued by an incompetent authority having no jurisdiction or an allegation of mala fides

raised, then alone a writ is entertainable.

8.In the event of raising an allegation of mala fides against an authority, such authority must be impleaded as party/respondent in his personal capacity in the writ petitions. In the absence of any one of these grounds, the parties must go before the authorities to establish their case in the manner known to law and by submitting all the relevant documents. In the present case, the writ petitioner has challenged the Inquiry Notice issued by the first respondent for the purpose of ascertaining the facts.

9.This being the factum, the petitioner is at liberty to place all its objections along with the documents within a period of 4 weeks from the date of receipt of a copy of this order and thereafter, the first respondent shall conduct an inquiry by following the procedures and by affording opportunities to the parties concerned and thereafter pass appropriate final orders on merits and in accordance with law. If the petitioner is aggrieved thereafter, has to approach the appellate authority in the manner contemplated.

10. With these directions the writ petition stands **disposed of** . No costs. Consequently, connected miscellaneous petition is closed.

(sha) 25.04.2023
Index : Yes
Speaking Order
Neutral Citation : Yes

To

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S.M.SUBRAMANIAM. J.,

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