IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2024

CORAM

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.No.10965 of 2021 and
W.M.P.No.11598 of 2021 and
W.M.P.Nos.15317 & 29969 of 2022

V.Saradha Rukmani ... Petitioner

Vs.

Additional Chief Secretary / Commissioner
of Revenue Administration,
Revenue Administration and Disaster Management,
Chepauk, Ezhilagam,
Chennai 600 005. ... Respondent

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records of the respondent made in Ser.2(4)/16718/2018 dated 05.04.2021 and quash the same as illegal, arbitrary and non-est in law.

For Petitioner : Mrs.R.Dhakshayini Reddy, Senior Counsel for Mr.M.Nandakumar

For Respondent : Mr.R.Kumaravel, Additional Government Pleader

ORDER

This Writ Petition has been filed seeking issuance of a Writ of Certiorari, to call for the records of the respondent made in Ser.2(4)/16718/2018 dated 05.04.2021 and quash the same as illegal, arbitrary and non-est in law.

2. Heard Mrs.R.Dhakshayini Reddy, learned Senior Counsel for the petitioner and Mr.R.Kumaravel, learned Additional Government Pleader for the respondent.

3. The petitioner was promoted as Deputy Collector on 11.02.2012 and again promoted as District Revenue Officer on 05.06.2020. The petitioner served as Special Deputy Collector (stamps) at Salem. An appeal was preferred by the purchaser of the property against the order of fixing stamp duty on the sale deed dated 16.11.2005 for a sale consideration of Rs.1,60,000/-. As an appellate authority, the petitioner considered the appeal and directed the appellant to pay the deficit stamp duty as per the guideline value within the stipulated time. Aggrieved by the said order, the appellant / purchaser has filed a further appeal before the Chief Controlling Revenue Authority on 26.07.2007 and the same was rejected as barred by limitation. The purchaser filed Civil Miscellaneous Appeal in CMA.No.44 of 2009 before this Court wherein an order has been passed on 12.07.2016 to hear the appeal by the Chief Controlling Revenue Authority. However the petitioner had considered the appeal and passed an order on 02.11.2016 directing the purchaser to pay the differential stamp duty by fixing the market value as Rs.56/- per Sq.ft. In the meanwhile, the Chief Controlling Revenue Authority had also considered the appeal as per the direction of this Court and passed an order by setting aside the order passed by the petitioner and she was also called for an explanation.

4. The Chief Controlling Revenue Authority had fixed the market value at Rs.200/- per Sq.ft and directed the land owner to pay the deficit stamp duty. The petitioner's explanation was also accepted and further action was dropped. However, the respondent suddenly issued a charge memo against the petitioner under Rule 17(b) by alleging that entertaining the appeal of the landlord is contrary to the order dated 12.07.2016 passed by this Court in CMA.No.44 of 2009. It is also alleged that the petitioner had caused loss to the Government to the tune of Rs.3,67,223/. Aggrieved by the said charge memo, the petitioner has filed this Writ Petition.

5. Mrs.R.Dhakshayini Reddy, learned Senior Counsel for the petitioner submitted that on 22.04.2021, the Inspector General of Registration has sent a communication to the Principal Secretary / Commissioner of Revenue Administration stating that there is no revenue loss caused to the Department because the purchaser had already paid the differential stamp duty. It is further submitted that the petitioner cannot be made answerable to quash the judicial authority to which she had passed the order and hence, the charge issued to her is without jurisdiction.

6. It is further submitted by the learned Senior Counsel that the third charge is a vague one and does not have any material particulars. So far as the second charge is concerned, it is with regard to the loss of revenue caused due to the order passed by the petitioner on 02.11.2016. However as per the report of the Inspector General of Registration, the purchaser had paid the difference of stamp duty and as such there is no loss to the Government. Before issuing the above charge memo by taking into consideration of the subsequent order passed by the Chief Controlling Revenue Authority, the respondent could have ascertained whether the purchaser had paid the differential stamp duty and whether there is any loss of revenue to the Government.

7. In fact, the Inspector General of Registration himself has issued the charge memo to the petitioner on 15.03.2018 and the petitioner has given her explanation and the same was considered by the Inspector General of Registration and only in view of that the Inspector General of Registration has written a letter to the Principal Secretary on 22.04.2021. When there is a specific charge alleging loss of revenue to the Government and the records would show that there is no loss of revenue, it is unnecessary to proceed with the charge and hence the above charge is liable to be quashed.

8. So far as the first charge is concerned, it is in respect of an order passed by the petitioner by wrongly construing the order of the High Court made in CMA No.44 of 2009. In the said Civil Miscellaneous Appeal, a direction has been given to the Chief Controlling Revenue Authority. However, the petitioner in the Civil Miscellaneous Appeal who is the purchaser has re-submitted the appeal before the petitioner and the petitioner got misled and passed the order. Simultaneously, the Chief Controlling Revenue Authority has also complied the direction of the High Court by taking up the appeal and passed order stating that the purchaser has to pay the stamp duty at Rs.200 per Sq.ft.

9. Even though the petitioner claims that the quasi judicial power exercised by her should not be subjected to disciplinary action, the fact remains that the petitioner had usurped the jurisdiction of the Chief Controlling Revenue Authority to whom the High Court had issued the direction. The rightful course ought to have been taken against the petitioner is by initiating contempt action. No such action has been initiated by the petitioner of that proceedings.

10. No doubt the petitioner ought not to have taken up the appeal once again when she was not a party to the Civil Miscellaneous Appeal. In view of the non-construction of the order passed by the High Court, the petitioner happened to pass the order. However, the said order was not given effect in view of the order subsequently passed by the Chief Controlling Revenue Authority, who is the authority against whom a direction has been given.

11. Even though the petitioner had passed an order without jurisdiction, the said point itself is a ground for further appeal for the aggrieved. No doubt there is a quasi judicial indiscipline on the part of the petitioner by arrogating the power of the Chief Controlling Revenue Authority against whom the direction has been given. But the Inspector General of Registration himself has initiated action against the petitioner. When the immediate Controlling Officer was the Inspector General of

Registration who called for explanation for the alleged lapse on the part of the petitioner and her explanation was also accepted, it is unnecessary to take up the matter once again by the respondent by issuing the impugned charge memo even when there is no loss of revenue.

12. The petitioner cannot be made answerable for the very same charges once again by another superior authority in the absence of any order passed by the Inspector General of Registration as to the necessity for the disciplinary action. When the Inspector General of Registration accepts the explanation given by the petitioner and got satisfied, the matter would end there, especially when there is no loss of revenue.

13. The learned Senior Counsel for the petitioner attracted the attention of this Court to several judicial pronouncements wherein it is categorically held that any charge sheet is issued in respect of the quasi judicial power exercised by an authority that would infringe upon the confidence and independent functions of the quasi judicial authority. However, if the quasi judicial authority is found to have acted due to some extraneous consideration by misusing the powers, then it is the matter of the concerned and the authority cannot say that no action can be initiated. But in the instant case, no such allegation has been made but the allegation is only in respect of the order passed by the petitioner without jurisdiction.

14. In view of the above stated reasons and also by taking into consideration of the fact that the petitioner was made answerable to the very same allegations by the immediate Controlling Officer (Inspector General of Registration) who had dealt the matter appropriately the impugned charge is liable to be set aside.

15. In the result, this Writ Petition is allowed and the order passed by the respondent in Ser.2(4)/16718/2018 dated 05.04.2021 is set aside. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes /No **22.02.2024**
Internet : Yes/No
Speaking / Non-speaking
gsk

R.N.MANJULA, J.

gsk

To

Additional Chief Secretary / Commissioner
of Revenue Administration,
Revenue Administration and Disaster Management,
Chepauk, Ezhilagam,
Chennai 600 005.

W.P.No.10965 of 2021 and
W.M.P.No.11598 of 2021 and
W.M.P.Nos.15317 & 29969 of 2022

22.02.2024