IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14-06-2024

CORAM

THE HONOURABLE MR.JUSTICE S.M. SUBRAMANIAM
And
THE HONOURABLE MR. JUSTICE K.RAJASEKAR

Review Application No.172 of 2024

1.State of Tamil Nadu Represented by its
Secretary to the Government,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.Inspector General,
Registration Department,
Secretariat, Fort St. George,
Chennai-600 009. .. Applicants

-vs-

1.CREDAI, CHENNAI
Represented by its President,
Mr.S.Sivagurunathan,
8th Floor, 8E, Century Plaza,
#526, (560-562), Anna Salai,
Chennai-600 018.

2.Shree Mahalakshmi Enterprises,
Represented by its Partner,
Mr.Pravin Jain,
Doshi Towers, 9th Floor,
No.156, PH Road,
Kilpauk,
Chennai-600 010.

3.Magnum Infra Represented by its
Managing Partner Mr.Suyash Surana,
No.2, Arvamuthu Garden Street,
Egmore,
Chennai-600 008. .. Respondents

Review Application is preferred under Order 47, Rule 1 read with Section 114 of Civil Procedure Code against the judgment passed by this Court in WA No.512 of 2024 dated 06.03.2024.

For Applicants	:	Mr.P.S.Raman, Advocate General Assisted by Mr.B.Vijay, Additional Government Pleader.
For Respondents	:	Mr.Surya Narayan for Mr.Rahul Balaji.

O R D E R

[ORDER OF THE COURT WAS MADE BY S.M.SUBRAMANIAM, J.]

The State preferred the present Review Application to review the judgment dated 06.03.2024 passed by this Court in WA N.512 of 2024.

2. Mr.P.S.Raman, learned Advocate General, appearing on behalf of the applicants, would submit that Section 47-AA of the Indian Stamp Act, 1899, [hereinafter referred to as the 'Act', in short] stipulates that Constitution of Valuation committee is mandatory and Constitution of Valuation Sub Committee is directory.

3. In this context, in sub-section (1) to Section 47-AA of the Act, the language employed under the provision is 'shall'. Therefore, the Constitution of Valuation Committee is mandatory for the purpose of determining the market value. Sub Section (2) to Section 47-AA of the Act, denotes that the State may for the purpose of ascertaining the market value, Constitute Valuation Sub Committee in each District.

4. In this regard, harmonious reading of Sub-section 1 and Sub-section 2 to Section 47 AA of the Act is necessary. While, the Act contemplates that the constitution of Valuation Committee is mandatory by employing the word "shall", the constitution of the Sub Committee and its relevance and importance to assist the Valuation Committee at the State level at no circumstance be undermined. Whether it is possible for the Valuation Committee to collect the entire details regarding the market value across the State of Tamil Nadu or not is the question to be considered. Thus, the job of the Sub Committee is of paramount importance and without the assistance of the Sub Committee, it would be difficult for the Valuation Committee to arrive at a fair decision.

5. A well settled rule of interpretation of the statutes is that the use of the word "shall" in a statute does not necessarily mean that in every case it is mandatory that unless the words of the statute are literally followed, the proceeding or the outcome of the proceeding, would be invalid. It is not always correct to say that if the word "may" has been used, the statute is only permissive or directory in the sense that non-compliance with those provisions will not render the proceeding invalid.

6. In the case of the ***State of Uttar Pradesh v. Babu Ram Upadhya, AIR 1961 SC 751,*** it is contended that when the statute uses the word "shall", prima facie, it is mandatory, but the Court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute.

7. In the case of ***Peerless General Finance and Investment Co. Ltd., 1987 (1) SCC 424***, it is contended that the principle of literal construction of the statute alone, in all circumstances without examining the context and scheme of the statute, may not serve the purpose of the statute sustained.

8. The purpose and object of the constitution of Valuation Committee under the Act cannot be allowed to be defeated. Appointing Valuation Sub-committee, undoubtedly would be of greater assistance to the Valuation Committee to arrive at a fair decision

9. However, the ground raised by the learned Advocate General, as stated above, cannot be construed as an error apparent for

exercising the review power. Therefore, we left open the issue for an adjudication, in an appropriate case.

10. The scope of Order 47, Rule (1) CPC, cannot be expanded, so as to re-adjudicate the issues or to consider the grounds of appeal in the Review Applications. Therefore, we are not inclined to entertain such grounds.

11. The learned Advocate General would further contend that the Government issued G.O.Ms.No.163, Housing and Urban Development Department, dated 09.09.2009, amending the development regulations for Chennai Metropolitan Area on Premium FSI.

12. In our judgment, we have made it clear that the documents already registered during the interregnum period from the date of Circular dated 30.03.2023 and the date of the judgment in Writ Appeal stand excluded. In other words, this Court intended to give effect to the judgment with prospective effect and the stamp duty or Premium FSI amount collected already prior to the judgment, need not be refunded by the State. In

other words, the persons, who have already paid the registration charges or Premium FSI charges cannot claim refund from the State.

13. Since the payment made towards Premium FSI has not been specifically mentioned in the Writ Appeal judgment, the learned Advocate General would contend that the builders are claiming refund of Premium FSI already paid prior to the judgment. Thus we made it clear that any amount paid towards registration or any other charges, including Premium FSI paid prior to the judgment in Writ Appeal No.512 of 2024 dated 06.03.2024, need not be refunded by the Government.

14. To the above extent, the judgment in the Writ Appeal is clarified. Accordingly, the present Review Application stands disposed of. However, there shall be no order as to costs.

(S.M.SUBRAMANIAM,J.)

(K.RAJASEKAR,J.)

14-06-2024

Index : Yes/No
Internet: Yes/No
Speaking order/Non-Speaking order
Neutral Citation : Yes/No

Svn/Sha

To

1.The Secretary to the Government,
State of Tamil Nadu,
Commercial Taxes and Registration Department,
Secretariat, Fort St. George,
Chennai-600 009.

2.Inspector General,
Registration Department,
Secretariat, Fort St. George,
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S.M.SUBRAMANIAM, J.
AND
K.RAJASEKAR, J.

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