BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 26.02.2024

CORAM:

THE HON'BLE MR.JUSTICE **P. DHANABAL**

C.M.A.(MD)No.1248 of 2014
and
M.P(MD) No.1 of 2014

M/s. Nila Mines Private Limited
137, Pudurpandiapuram
Tuticorin Taluk
Tuticorin District
Rep. by its Director
C.Selwin Prabhu .. Appellant/Appellant/Purchaser

.Vs.

1. The Chief Controlling Revenue Authority and Inspector General of Registration
   Chennai - 28 .. Respondent/Appellate Authority

2. The District Registrar
   Ramanthapuram District ..Respondent/Original Authority

3. The Sub Registrar
   Sayalkudi
   Tuticorin District ..Respondent/Registering Authority

Prayer : This Civil Miscellaneous Appeal filed under Section 47-A (10) of Indian Stamp Act, to set aside the order dated 14.10.2014(served on 01.11.2014) made in D.Dis No.50355/P1/2013 on the file of the first respondent herein partly reversing the order dated 17.09.2013 made in Na.Ka. No.939/Aa1/2013 on the file of the second respondent herein under reference made by the third respondent herein for the sale deeds registered on 09.02.2007 vide document No.172 to 177 of 2007 and direct the respondents to release the documents without insisting for any additional stamp duty or penalty.

For Appellant : Mr.C. T. Perumal

For Respondents : Mr. G.Sivaraja
Government Advocate(Crl.Side)

JUDGMENT

This Civil Miscellaneous Appeal has been filed as against the order passed by the first appellate authority in D.Dis No. 50355/P1/2013, wherein the first appellate authority has passed order in the revision petition under Section 56(1) of the Indian Stamp Act. As against the order passed by the District Registrar, Ramnad demanding payment of deficit stamp duty of Rs.12,44,468/- together with penalty of Rs.10,000/-,wherein the first respondent has passed order that the appellant has obtained consent deed from the owners of the property i.e.,10 executant have executed consent deed, thereby they conveyed the property to the appellant, thereby they have to pay the charges of stamp duty and confirmed the order passed by the District Registrar, Ramnad.

2.According to the appellant he purchased the properties from various persons through document Nos. 173 of 2007 to 177 of 2007 dated 09.02.2007 and document No.172 of 2007 dated 26.07.2007 for valuable consideration and also paid requisite stamp duty. Thereafter he obtained consent deed from some of the owners against whom it was omitted to get sale deed for the properties already deeds were executed on 28.11.2011.. In that sale deed the District Registrar passed order to pay a sum of Rs. 12,44,468/- as stamp duty for the consent deed. As against the order passed by the District Registrar the appellant had preferred appeal and thereafter the appellate authority /first respondent also passed order by confirming the value fixed by the second respondent. As against the order passed by the first respondent,the present appal has been preferred.

3. According to the respondent both the properties were already purchased by the appellant and some of the executors have executed consent deed on 28.11.2011 and thereafter through the above said deed properties were conveyed and thereby fixed stamp duty by treating the documents as conveyance.

4. This Court has heard both sides and perused the records.

5. According to the appellant they have only obtained consent deed and no any conveyance was took place. Already properties were purchased and stamp duty also paid for the entire property and now some of the share holders were omitted at the time of purchase of property and thereby they have got consent deed from them. Therefore the property was not conveyed to the appellant and the same was already conveyed and now only executed consent deed. Therefore the payment of stamp duty would not arise.

6. According to the respondent they admitted that it was consent deed. However the persons who have executed document conveyed the property and thereby the stamp duty has to be paid.

7. In this case the main point is whether the appellant is liable to pay the stamp duty for the property already purchased by them and paid stamp duty for the entire extent. Since because some of the share holders have not signed in the documents can the department demand stamp duty for the entire property.

8. This Court has perused the records. On perusal of record it reveals that already the property was sold by some persons and at that time of execution of sale deed in the year 2009 some of the share holders were not signed. However the entire property was conveyed to the appellant though sale deed in the year 2009. After some time the remaining share holders have executed consent deed for the properties which was already conveyed to them and there is no any conveyance of properties and already the properties were consent and now only they executed concerned deed. Therefore by executing consent deed the property has not been conveyed to the appellant but already stamp duty was paid for entire property, thereby the order passed by the appellate authority by demanding stamp duty for the entire property is not sustainable. Therefore the order passed by the authorities is not valid and the same is liable to be set aside. Further in the documents itself there is no mention about the share of the executant and they only consented for the property already conveyed to the appellant. Therefore there is no any fresh conveyance by the executants. Therefore the question of payment of stamp duty would not arise since already for entire property stamp duty was paid and obtained sale deeds.

9. In the result, this Civil Miscellaneous Appeal stand allowed and the order passed by the first respondent in D.Dis No. 50355/P1/2013 by confirming the order of the second respondent in proceedings No. Na.Ka. No.939/Aa1/2013 are set aside and the respondents are directed to release the documents, if already not released. No costs. Consequently connected miscellaneous petition is closed.

26.02.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
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To:
1. The Chief Controlling Revenue
Authority and Inspector General of
Registration
Chennai - 28

2. The District Registrar
Ramanthapuram District

3. The Sub Registrar
Sayalkudi
Tuticorin District

4.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.

P. DHANABAL,J.

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