BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

CORAM

THE HONOURABLE MR.JUSTICE K.KUMARESH BABU

W.P(MD)No.16354 of 2017
and
W.M.P(MD)No.13026 of 2017

M/s.Annai Power Private Limited,
Represented by its Director
K.S.Kamalakannan,
Having Registered Office at
No.1, Annapillai Street,
Chennai – 600 001. ... Petitioner

Vs.

1.The Inspector General of Registration
and the Chief Controlling Revenue Authority,
100, Santhome High Road,
Chennai – 20.

2.The Sub Registrar,
Sub Registrar's Office,
Thiruchuli,
Virudhunagar District. ... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in Niluvai Avana No. P 68/2017 dated 03.08.2017 issued by the second respondent and quash the same as illegal, arbitrary and in violation of Article 18 of Indian Stamp Act, 1899 and further direct the second respondent to register the Certificate of sale dated 03.08.2017 presented by the petitioner under Article 18 of Indian Stamp Act, 1899.

For Petitioner : Mr.N.Sudalai Muthu

For Respondents : Mr.D.Sadiq Raja
Additional Government Pleader

ORDER

The issue related in this writ petition is of claim of stamp duty and the registration charges 7 + 4 % of the value. The said issue is no longer *res integra* and it is also covered by the judgment of the Hon'ble Division Bench of this Court in W.A.No.1115 if 2017 dated 30.04.2024 which I was a party. After dealing with the entire issue, the Hon'ble Division Bench had held as follows:

> *"38. In view of the aforesaid legal position, the order impugned passed by the learned Judge requires modification. Therefore, this Writ Appeal stands disposed of with the following orders:-*
>
> *(i) That, the appellant department is entitled to claim 5% stamp duty, 2% transfer duty and 1% registration charge on the Sale Certificate presented by the respondent and registered by appellants' department, especially, the 4 th appellant. However, such levy of stamp duty, transfer duty and the registration charge*

shall be only on the purchase money of the property as reflected in the Sale Certificate, but not on the market value or guideline value of the property.

(ii) Accordingly, the stamp duty paid by the respondent shall be taken into account and if any additional stamp duty is to be paid, that can be calculated and be intimated to the respondent. However, since the impugned order before the Writ Court i.e., dated 06.04.2017, issued by the 4 th respondent is concerned, since it has been calculated based on the market value or the guideline value of the property concerned, the same is liable to be set aside. Accordingly, the order passed the learned Single Judge, setting aside the said order to that extent, is to be sustained. Resultantly, the matter is remitted back to the 4 th appellant to reconsider the issue in the light of the aforesaid directions, after affording an opportunity of being heard to the respondent and pass necessary orders to that effect regarding the additional payment, if any and if no such additional payment is required to be paid by the respondent and already, if he has paid the required amount, as per the calculations to be made, the same shall be communicated and thus the document registered shall be released to the respondent. Therefore, the order impugned passed by the learned Judge is modified to the extent as indicated above."

Adopting the very same approach, the order impugned in this writ petition is set aside and remitted back to the second respondent to deal with the issue in the light of the judgment of this Court made in W.A.No. 1115 if 2017. Such exercise shall be completed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

2. The learned counsel for the petitioner would also submit that during the pendency of this writ petition, the entire amount has been paid under protest for getting the document released. If the respondents apply the said judgment and come to the conclusion that the amount had been paid in excess, the same shall be refunded with interest. It is also made clear that the second respondent shall offer opportunity to the petitioner.

3. This Writ Petition is allowed accordingly. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

25.11.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
MGA

To

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   and the Chief Controlling Revenue Authority,
   100, Santhome High Road,
   Chennai – 20.

2. The Sub Registrar,
   Sub Registrar's Office,
   Thiruchuli,
   Virudhunagar District.

K.KUMARESH BABU, J.

MGA

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