IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

THE HONOURABLE SMT. JUSTICE RENUKA YARA

WRIT PETITION No.11320 of 2008
(CNR No. HBHC010597472008)

7TH DAY OF OCTOBER, 2026

Reserved on: 29.09.2026 Pronounced on: 07.10.2026
Uploaded on : 07.10.2026

Between:

M/s. Swarnandhra - IJMII Integrated Township Development Company Limited

…Petitioner

AND

Deputy Inspector General (R & S)

…Respondent

ORDER:

The Writ Petition is filed with the following prayer:

> "to issue a writ of prohibition or any other appropriate writ, order or direction restraining the respondent from taking further proceedings pursuant to impugned notice dated 17.05.2008 and further declaring the action of the respondent in issuing the impugned notice dated 17.05.2008 as illegal, unlawful and without authority of law ……"

2. Heard Sri M.S.Srinivasa Iyengar, learned Senior Counsel, assisted by Sri Hirendernath, Vadeendra Joshi, learned counsel for the petitioner.

3. No one appeared for the respondent.

4. The writ petitioner is a company engaged in the activity of development of residential townships and other areas of infrastructure development. The respondent issued notice dated 17.05.2008 and the same is challenged in the writ petition. As per said notice, the Office of Chairman, Andhra Pradesh Housing Board, Hyderabad, under Section 73 of Indian Stamp Act noticed that the following deeds are deficitly stamped:

a) Memorandum of Understanding between A.P.H.B and IJM (India) Infrastructure Limited, Hyderabad dated 15.05.2002,

b) Development & Shareholders Agreement between A.P.H.B & IJM dated 04.11.2003,

c) General Power of Attorney executed by A.P.H.B in favour of IJM dated 04.11.2003,

d) Construction Agreement dated 09.02.2004 between Swarnandhra IJMII Integrated Township Development Company and IJM India dated 09.02.2004, and

e) Agreement between A.P.H.B and Swarnandhra IJMII Integrated Township Development Company and IJM (India) Infrastructure Limited dated 08.02.2006.

5. In the said notice, the above referred document under (a) has deficit of Rs.90/- stamp duty. The document (b) is deficitly stamped to the extent of Rs.22,49,99,900/-. The document (c) is deficitly stamped to the extent of Rs.22,49,99,900/-. The document (d) is deficitly stamped to the extent of Rs.22,49,99,900/- and the document (e) is deficitly stamped to the extent of Rs.49,900/-. The notice states that the total stamp duty payable for the 5 documents is Rs.67,50,49,690/- only. The petitioner was directed to appear on 26.05.2008 before the respondent. Further, notice states that action would be initiated for recovery of loss of stamp duty under provision Section 48 of Indian Stamp Act, II of 1899.

6. In that context, the case of the writ petitioner is that the impugned notice is wholly vitiated by illegality as there is no power available to the Deputy Inspector General (R & S) to inspect or impound any document as held by the Supreme Court

in case of **District Registrar and Collector, Hyderabad and another v. Canara Bank**[1], wherein Section 73 of Indian Stamp Act, 1899 has been struck down as amended by A.P.Act 17 of 1986. According to the writ petitioner, since Section 73 of Indian Stamp Act, 1899 has been struck down, the impugned notice is issued without any jurisdiction and that none of the conditions for exercise of power under Sections 33 and 40 of Indian Stamp Act, 1899 exist. As such, it is pleaded that the impugned notice be declared illegal and unlawful.

7. A perusal of the impugned notice dated 17.05.2008 shows that the said notice was issued under Section 73 of Indian Stamp Act as deficitly stamped instruments were found during course of audit. The impugned notice calls upon the writ petitioner to pay total stamp duty of Rs.67,50,49,690/- and also requested appearance of a representative of writ petitioner in person before the Deputy Inspector General on 26.05.2008, failing which, action would be initiated for recovery of loss of duty caused to the Government under provisions of Section 48 of Indian Stamp Act. Aggrieved by the impugned notice, the writ petition is filed.

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[1] AIR 2005 SC 186

8. The learned counsel for the writ petitioner referred to the judgment in the case of **District Registrar and Collector (1 supra)**, wherein the Hon'ble Supreme Court of India held that Section 73 of Indian Stamp Act, 1899 violates Article 19(1)(a) & (d) and Article 21 of Constitution of India, wherein there is an infringement of right to privacy of the house and person and right to freedom from unreasonable search and seizure. It is observed that under the cover of power conferred by Section 73, an official authorized may go on a rampage searching house after house and ultimately, the purpose sought to be achieved would cease to exist. Relevant text is extracted and produced below:

> "Under the garb of the power conferred by Section 73 the person authorized may go on rampage searching house after house i.e. residences of the persons or the places used for the custody of documents. The possibility of any wild exercise of such power may be remote but then on the framing of Section 73, the provision impugned herein, the possibility cannot be ruled out. Any number of documents may be inspected, may be seized and may be removed and at the end the whole exercise may turn out to be an exercise in futility. The exercise may prove to be absolutely disproportionate with the purpose sought to be achieved and, therefore, a reasonable nexus between stringency

> of the provision and the purpose sought to be achieved ceases to exist."

9. In view of the above, the Hon'ble Supreme Court held that Section 73 of Indian Stamp Act as amended in the Andhra Pradesh Act, 17 of 1986 is ultra vires of the Constitution. On the basis of the same Judgment, the High Court of Andhra Pradesh at Amaravati vide common order dated 29.11.2024 in Writ Petition Nos.20425, 31643 and 37869 of 2015, in the case of Bharat Heavy Electrical Limited v. State of Andhra Pradesh, Rep. by its Prl. Secretary, Revenue Department and others held that notices issued under Section 73 of the Stamp Act are ultra vires and therefore, quashed the same.

10. In the instant case too, the impugned notice was issued under Section 73 of Indian Stamp Act, which has been declared ultra vires in the case of **District Registrar and Collector (1 supra)**, and therefore, the same is unsustainable.

11. In the result, the writ petition is allowed, declaring the impugned notice dated 17.05.2008 issued by respondent as illegal and unlawful, and consequently, said impugned notice is set aside.

There shall be no order as to costs. Miscellaneous applications, if any, pending shall stand closed.

RENUKA YARA, J

Dt. 07.10.2026
gvl

THE HONOURABLE SMT. JUSTICE RENUKA YARA

W.P.No.11320 of 2008

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