

Renu Sood Vs. Chief Controller and Revenue Authority

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Court : Chennai

Decided On : Sep-25-2013

Judge : K.Ravichandra Baabu

Appellant : Renu Sood

Respondent : Chief Controller and Revenue Authority

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED:

25. 09.2013 CORAM THE HONOURABLE MR.JUSTICE K.RAVICHANDRA BAABU W.P.No.24744 of 2005 and W.P.M.P.No.27100 of 2005 Mrs.Renu Sood ... Petitioner Vs. 1.The Chief Controller and Revenue Authority, Chennai 28. 2.The District Revenue Officer (stamps), 5th floor, M.Singara Velar maligai, 32, Rajaji Salai, Chennai 1. 3.The Sub-Registrar, Periamet, Madras 3. ... Respondents PRAYER: Writ Petition filed under Article 226 of Constitution of India praying to issue Writ of mandamus to direct the first respondent to collect the amount towards stamp duty and registration charges as per G.O.Ms.No.193, Commercial Taxes Department, dated 27.12.2004 and consequently direct the third respondent to return the document 2158/2003 to the petitioner and pass such further orders. For Petitioner : Mr.V.Lakshminarayanan For Respondents : Mr.N.Sakthivel, GA

ORDER

The prayer in the writ petition is to issue a direction to the first respondent / the Chief Controller and Revenue Authority, Chennai, to collect the amount towards stamp duty and registration charges as per G.O.Ms.No.193, Commercial Taxes Department, dated 27.12.2004, and consequently, to direct the third respondent / the Sub-Registrar, Chennai, to return the document bearing No.2158/2003 to the petitioner.

2. The case of the petitioner is as follows: The petitioner had purchased the property from her vendor for a valuable consideration and the document was assigned with registration No.2158/2003 by the Registration Department. The third respondent referred the matter to the second respondent and he, in turn, issued a notice to the petitioner in Form No.2 on 30.06.2003 calling upon her to pay a sum of Rs.1,74,429/-, being differential stamp duty. It is the case of the third respondent that the document was under valued. Consequently, the second respondent also passed a confirmation order dated 23.07.2004, directing the petitioner to pay the said amount. The petitioner preferred an appeal before the first respondent against the said order and the same is pending. In the meantime, the Government of Tamil Nadu introduced a Samadhan Scheme through G.O.Ms.No.193, Commercial Taxes Department, dated 27.12.2004, whereby 40% remission was offered on the duty chargeable. Thus, the petitioner is also entitled to have the benefit of the said G.O. Consequently, she made a representation to the respondents to accept her document under the aforesaid scheme. When the said request was not considered, the present writ petition came to be filed before this Court.

3. Heard the learned counsel appearing on either side.

4. Mr.V.Lakshminarayanan, learned counsel appearing for the petitioner, contended that the petitioner is entitled to have the benefit of G.O.Ms.No.193, even though the original authority has passed an order and the matter is pending at the stage of appeal.

5. Per contra, learned Government Advocate appearing for the respondents, would submit that a mere perusal of the said G.O.Ms.No.193 would show that it is made applicable only in respect of the documents, which covered by proceedings

under Section 47-A of the Indian Stamp Act, 1899, and pending as on 30.11.2004. Therefore, it is the contention of the respondents that the said Samadhan Scheme is not applicable to the petitioner's case. To this objection, learned counsel for the petitioner, by inviting this Court's attention to a decision of a learned Single Judge of this Court reported in 2005-3-L.W.648 (S.M.S.A.A.Farooq Ali v. the Sub-Registrar, North Madras and others), submitted that a similar issue was considered and this Court has directed the authorities to apply Samadhan Scheme even in respect of matters where the original authority has passed an order and the appeals preferred by the parties are pending.

6. A mere perusal of the above said order reported in 2005-3-L.W.648 would show that very same G.O.Ms.No.193, dated 27.12.2004, was considered by a learned Single Judge of this Court and after elaborate discussion under similar facts and circumstances as in the present case, the learned Single Judge observed thus at paragraphs 19 and 20: ".19. Therefore, I do not find any reason to adopt a narrow interpretation of the Government Order ignoring the fact that an appeal or a revision as provided for under the statute is only a continuation of the original proceeding and is a proceeding under the Act. There is no justification for denying the benefits of the scheme merely because of an accidental circumstance of an order having been passed by the original authority and pending before the appellate authority. In several cases, it is seen that original authority passes the order within a short period immediately after the registration, while in some other cases, it is seen that proceedings are kept pending before the original authority for more than five or six years. It would be anomalous to hold that a proceeding which was quickly disposed of shall not have the benefit of the Samadhan Scheme and that a proceeding which was kept pending on the file of the original authority for several years should alone receive the benefit of the Scheme. The test is whether the proceedings had reached finality or whether pending at some stage resulting in ".blocked revenue".. Therefore, viewed from any angle, the interpretation sought to be placed by the Revenue on the Government Order cannot be sustained.

20. Having regard to the fact of the pendency of the proceedings before the appellate authority as mentioned above, I am inclined to hold that in all these four writ petitions, the respective petitioners are entitled to the benefit of the scheme.

The writ petitions are allowed and the respondents are directed to calculate the dues in terms of the Scheme and to communicate the same to the petitioners for payment. On the payment being complied with, the respondents are directed to release the documents forthwith."

7. A bare perusal of the observations of the above case would disclose that the said decision is squarely applicable to the facts and circumstances of the present case and therefore, learned Government Advocate appearing for the respondents is not justified in contending that the said scheme is not applicable to the petitioner.

8. Considering the above said facts and circumstances and by applying the above said decision of this Court, I am inclined to allow the writ petition and accordingly, the writ petition is allowed and the respondents are directed to give the benefit of G.O.Ms.No.193, Commercial Taxes Department, dated 27.12.2004, to the petitioner and consequently, return the document No.2158/2004, after collecting the duty payable by the petitioner as per the above said G.O. The said exercise shall be done by the third respondent within a period of three weeks from the date of receipt of a copy of this order. No Costs. W.P.M.P.No.27100 of 2005 is closed. 25.09.2013 rkm Index: Yes/no Internet: Yes/no To 1.The Chief Controller and Revenue Authority, Chennai 28. 2.The District Revenue Officer (stamps), 5th floor, M.Singara Velar maligai, 32, Rajaji Salai, Chennai 1. 3.The Sub-Registrar, Periamet, Madras 3. K.RAVICHANDRA BAABU, J.

Rkm W.P.No.24744 of 2005 25.09.2013

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