Petitioner Vs. Respondnets

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Court : Chennai

Decided On : Nov-01-2016

Judge : T. Raja

Appeal No. : C.M.P.No. 14359 of 2016 in C.M.A.No. 1539 of 2016

Appellant : Petitioner

Respondent : Respondnets

Judgement :

1. K.V.Moovendhan represented by his Power of Attorney Mr.R.Richard Jamespeter has filed the civil miscellaneous appeal aggrieved by the order dated 3.3.2016 passed by the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai in his proceedings in Pa.Mu.No.9228/ N-5/2015, confirming the order dated 30.12.2014 passed by the Special Deputy Collector of Stamps, Tirunelveli in her proceedings in Mu.Sa.X1/1937/13 and Mu.Sa.X1/1938/13, fixing the value of the property in Survey No.46/1, Uthamapandiankulam Village, Palayamkottai Taluk, Tirunelveli District at Rs.900/- per square metre. He has also filed C.M.P.No.11687 of 2016 to grant an order of stay of all further proceedings and C.M.P.No.11688 of 2016 to pass an order of interim direction directing the respondents to release the sale deeds dated 16.9.2013 and 17.9.2013 registered as Document Nos.853 and 854 of 2013 on the file of the Sub Registrar, Burkit Mahanagaram, Palayamkottai Taluk, Tirunelveli District, pending disposal of the appeal.

2. According to the appellant, he had presented the sale deeds in respect of the property in question for registration in the office of the Sub Registrar, Burkit Mahanagaram and the same were also registered on 16.9.2013 and 17.9.2013 as Document Nos.853 and 854 of 2013 at the value of Rs.23.15 per square metre in respect of Document No.853 of 2013 and Rs.49.38 in respect of Document No.854 of 2013 respectively. However, the Sub Registrar, Burkit Mahanagaram referred those documents to the Special Deputy Collector of Stamps, Tirunelveli under Section 47-A of the Indian Stamp Act, 1899 for determination of the market value of the property in question. Pursuant thereto, the Special Deputy Collector of Stamps, Tirunelveli, by an order dated 21.7.2014, had determined the market value of the property at Rs.900/- per square metre on the premise that the property is situated in a prime locality and residential area. Aggrieved by the determination of Rs.900/- per square metre by the Special Deputy Collector of Stamps, Tirunelveli in respect of the property in question, the appellant preferred an appeal to the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai under Section 47-A(5) of the Indian Stamp Act and the appellate authority also has confirmed the order passed by the Special Deputy Collector of Stamps, Tirunelveli, which has given rise to the filing of the civil miscellaneous appeal.

3. While admitting the appeal, by order dated 28.7.2016, this Court in C.M.P.No.11687 of 2016 had granted an order of interim stay, without prejudice to the contentions of the parties, directing the appellant/petitioner to deposit 30% of the demanded amount within a period of six weeks, making it clear that if the appellant/petitioner succeeds in the appeal, 30% of the demanded amount shall be refunded to him with six percent interest by the State Government. With this observation, the said civil miscellaneous petition was disposed of accordingly.

4. Since there was some misunderstanding between the parties, when the matter came up again on 10.8.2016 under the caption for being mentioned , this Court, while considering the C.M.P.No.11688 of 2016, has again clarified the issue candidly and the relevant paragraphs of the order read as follows:-

4. Mr.S.Haja Mohideen Gisthi, learned counsel for the appellant has submitted that while granting interim stay in the petition in C.M.P.No.11687 of 2016, this Court had directed the appellant to deposit 30% of the demanded amount within a period of six weeks from 28.07.2016. He has also added that now, the documents are lying in the office of Sub-Registrar and unless and until an interim direction is granted directing the respondents to release the said documents pending disposal of the appeal, the appellant would be put into irreparable loss and hardship. He has also urged this Court that the respondents might be directed to release the sale deeds dated 16.09.2013 and 17.09.2013 registered as document Nos.853 and 854 of 2013, on such deposit of 30% of the demanded amount as directed by this Court in the order dated 28.07.2016. Accordingly, the respondents are directed to release the impugned documents bearing Nos.853 of 2013dated 16.09.2013 and 854 of 2013 dated 17.09.2013,on deposit of 30% of the demanded amount asdirected by this Court in the order dated 28.07.2016and made in the petition in C.M.P.No.11687 of 2016.

5. Accordingly, C.M.P.No.11688 of 2016 is disposed of, on deposit of 30% of the demanded amount. (emphasis supplied)

5. The last sentence in paragraph-4 of the aforementioned order makes it clear that the respondents were directed to release the sale deeds bearing Nos. 853 of 2013 dated 16.09.2013 and 854 of 2013 dated 17.09.2013 on deposit of 30% of the demanded amount as directed by this Court. Indeed, without complying with that order, the Special Deputy Collector of Stamps, Tirunelveli had sent a communication dated 23.8.2016 to the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai seeking further opinion whether the appellant could be permitted to deposit 30% of the demanded amount in pursuance of the order passed by this Court. The relevant portion of the said communication reads as follows:-

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In fact, she has also chosen to file C.M.P.No.14359 of 2016 on 26.8.2016 to vacate the interim order of stay granted by this Court.

6. Thereafter, this Court has passed one another order on 7.10.2016, after recording the submission of the learned counsel for the parties that a sum of Rs.10,39,021/- have to be paid in respect of the two documents representing 30% of the demanded amount as ordered by this Court, directing the official respondents to release the documents on such deposit. Even then the Special Deputy Collector of Stamps, Tirunelveli, for the reasons best known to her, has not complied with the order. In fact the appellant, by his letter dated 13.10.2016, has requested the Special Deputy Collector of Stamps, Tirunelveli to issue the challan for depositing the amount of Rs.10,39,021/- as ordered by this Court. Though the said letter was received by the office of the second respondent, no challan was issued to enable the appellant to deposit 30% of the demanded amount as ordered by this Court. Finally, when the matter once again came up for hearing on 18.10.2016, this Court, while referring to the aforementioned three orders passed already, directed the Special Deputy Collector of Stamps, Tirunelveli to comply with the order of this Court and directed the matter to be called on 1.11.2016, failing which the Court would be constrained to impose exemplary costs.

7. In spite of the above clear indication to comply with the Court's direction through the orders dated 28.7.2016, 10.8.2016, 7.10.2016 and 18.10.2016, the Special Deputy Collector of Stamps, Tirunelveli deliberately refused to obey the orders of this Court.

8. Though Mrs.S.Shenbagavalli, the Special Deputy Collector of Stamps, Tirunelveli is present before this Court, in spite of the aforementioned repeated and clear orders passed by this Court on four occasions, she is not prepared to abide by the orders passed by this Court and only wants a further clarification from the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai. The said callous attitude of the Special Deputy Collector of Stamps, Tirunelveli shows that she is neither able to follow the orders passed by this Court nor able to comply with the orders passed by this Court. Her attitude towards the Court is highly despicable, inasmuch as her adamant attitude not to obey the order would not only cause sheer wastage of the precious time of this Court, but also the valuable time of the Department. In addition thereto, this Court, as a matter of fact, is tired of passing the fifth order to ensure the compliance of its

order.

9. It is a well settled legal position that whether an order is right or wrong, the same has to be obeyed. It is also well settled that all authorities, civil, judicial and quasi-judicial in the territory of the High Court shall act in aid of the Court. While so, the Special Deputy Collector of Stamps, Tirunelveli, immediately after the first order dated 28.7.2016, should have come to the aid by reporting compliance. This Court, after seeing no response even after issuing the fourth order dated 18.10.2016, is constrained to direct the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai to initiate necessary departmental action against Mrs.S.Shenbagavalli, the Special Deputy Collector of Stamps, Tirunelveli for unnecessarily wasting not only the Court's time, but also the funds of the Department. Besides, for wasting the Court's time, this Court is also inclined to impose costs of Rs.10,000/- (Rupees ten thousand only) payable by the said Special Deputy Collector of Stamps to the Tamil Nadu Chief Controlling Revenue Authority and Inspector General of Registration, Chennai for non-compliance of the orders of this Court. The respondents shall report compliance of the orders passed by this Court on the next date of hearing. Since this Court had already disposed of the C.M.P.No.11687 of 2016 by order dated 28.7.2016 directing the appellant to deposit 30% of the demanded amount, no order is required in the vacate stay petition. Accordingly, C.M.P.No.14359 of 2016 is closed. Call on 14.11.2016.