Petitioner Vs. Respondent

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Court : Chennai Madurai

Decided On : Aug-08-2016

Judge : M. Venugopal

Appeal No. : W.P (MD) No.12679 of 2016

Appellant : Petitioner

Respondent : Respondent

Judgement :

M. Venugopal, J.

1. The Petitioner / Company has focussed the instant Writ Petition praying for passing of an order by this Court in directing the Second Respondent / Special Deputy Collector (Stamps), Collectorate, Thirunelveli, to accept the sum of Rs.36,24,640/-, being claimed by them, as deficient stamp duty, in regard to the instrument viz., Sale Deed document, bearing Registration No.2200/1999, (Registered on 16.11.1999), with the Third Respondent from the Petitioner and upon deposit of the aforesaid sum under protest - (i) keep the same by way of interest bearing Fixed Deposit and appropriate or refund the same subject to the final outcome of the adjudication proceedings under Section 47(A)(1) of the Indian Stamp Act, 1899, and also the final outcome of C.M.A.No.501 of 2009; (ii) clear the Encumbrance and release the charge pertaining to the said property viz., property situated at No.12/5A, 12/5B, 12/5C, 12/5D, 12/5A1 and 12/5A2,

Vilavankode Village, Palliyadi Taluk, Kanyakumari, Tamil Nadu, admeasuring about 2.356 Acres, belonging to the Petitioner and thereby, lift the charge over the property.

2. At this stage, the Learned Government Advocate for Respondent Nos.1 to 3 submits that the Petitioner has sent a representation, dated 02.07.2016, to the Second Respondent stating that the Company is ready and willing to deposit by way of interest, bearing Fixed Deposit, under protest and subject to the final outcome of CMA.No.501 of 2009, pending before this Court and requesting to accept a sum of Rs.36,24,640/- from the Company towards deficit stamp duty and clear the Encumbrance and release the charge pertaining to his Company's property mentioned in the Document No.2200/1999, registered on 16.11.1999 in the Third Respondent Office.

3. The Learned Government Advocate brings it to the Notice of this Court that due stamp duty amount is not Rs.36,24,640/-, as said by the Petitioner, but, it is Rs.36,26,640/-. Added Further, interest at the rate of 6% per annum and Registration Fee at the rate of 1% has to be paid. If the Petitioner / party pays the aforesaid amount, in the Government account, by way of challan, the Petitioner / Party's request could be accepted. But, the Petitioner wants to keep the amount in the form of interest bearing deposit, instead of paying into the Government account.

4. In fact, the certificate under Rule 7(4) of the Tamil Nadu stamp (Prevention of Instruments) Rules, 1968, can be added to the document, if the amount is collected and remitted into the Government account. Moreover, the Petitioner / Party can claim refund of excess payment, if any, as per the final outcome of C.M.A.No.501 of 2009, by applying before the appropriate authorities.

5. The Learned Government Advocate informs this Court that the Petitioner / Company may remit the deficit stamp duty (under head of account of DP Code 0030 02 103 AB 0008) with interest (under head of account of DPCode 0030 02 103 AC.0000) and deficit Registration Fee to the Government, under protest or otherwise and after such payment on production of the original Sale Deed, along with the original challans, necessary endorsement would be made mentioning that

the entire amount due, as per Section 47(A) was paid and there is no amount due under the Indian Stamp Act. Then, the charge on the property would get released and the encumbrance certificate thereafter would contain the aforesaid details.

6. In view of the fact that the Second Respondent / Special Deputy Collector (Stamps), Tirunelveli, has in his counter at paragraph No.12, had categorically mentioned among other things that the Petitioner is to pay Rs.36,26,640/- and the interest at the rate of 6% per annum, and also the Registration Fee at the rate of 1% to be paid by it, in the Government account, by means of challan, at this stage, this Court directs the Second Respondent / Special Deputy Collector (Stamps), Tirunelveli, to file a Memo before this Court, mentioning in clear terms, as to what exactly the stamp duty amount is to be paid by the Petitioner together with interest, if so at mentioning the rate of interest and also the Registration fee at the rate of 1%. In effect, Second Respondent / Special Deputy Collector (Stamps), Tirunelveli, is directed to calculate the same and to file the aforesaid details with necessary break up figures, both in qualitative and qualitative terms, within a period of one week herefrom.

7. Registry is directed to list the matter on 16.08.2016.