(2012) 06 AP CK 0023

In the Andhra Pradesh High Court

Case No : Writ Petition No. 33717 of 2010

L. Gopal Singh APPELLANT

Vs

The Inspector General Stamps and Registration NTR Cross Roads, Hyderabad, The District Collector, (Stamps and Registration), Hyderabad and The Sub Registrar, Doodh-Bowli, Hyderabad RESPONDENT

Date of Decision : 04-06-2012

Acts Referred:

Citation : (2012) 5 ALD 226 : (2012) 4 ALT 563

Hon'ble Judges : L. Narasimha Reddy, J

Bench : Single Bench

Advocate : N. Vidya Prasad, for the Appellant;

Final Decision : Allowed

Judgement

L. Narasimha Reddy

1. M/s. Hindustan Petroleum Corporation Limited invited applications for establishment of a petroleum outlet at Jumarath Bazar, Hyderabad. The applicant must be either a owner of the land, which is required for establishment of the outlet, or a lessee. The petitioner submitted application for establishment of the outlet by taking an extent of 1290.55 square yards of land in the locality on lease. He was granted licence. As required under the business regulations or conditions, the petitioner took the property on lease for a period of 15 years through a document, dated 18.11.2009. Stamp duty of Rs. 2,46,300/- and registration charges of Rs. 8,210/- were paid. The document was submitted to the Corporation. However, the Corporation is said to have insisted that the lease must be for a period of 30 years. In view of this, the petitioner obtained a deed of rectification, dated 11.10.2010, from the lessors for a period of 30 years. The document was presented for registration before the Sub-Registrar, Doodh-Bowli, respondent No. 3 herein, for registration. The grievance of the petitioner is that instead of collecting the stamp duty and registration charges for the extended

period of lease, respondent No. 3 has collected the stamp for the entire 30 years period. He seeks a declaration in relation thereto and for a consequential direction for refund of stamp duty and registration charges collected in excess from him. Sri N. Vidya Prasad, Learned Counsel for the petitioner, submits that the stamp duty for a lease deed is payable under Article 31 of Schedule 1-A of the Indian Stamp Act (for short ''the Act'') and that the same was paid for a period of 15 years when the lease deed, dated 18.11.2009, was executed. The Learned Counsel further submits that in the light of the extension of the lease for a further period of 15 years, respondent No. 3 was supposed to collect the differential amount and not the entire amount covered by the earlier original lease deed.

2. Learned Government Pleader for Revenue, on ''the other hand, submits that the deed of rectification has the effect of bringing about a fresh lease and that the fact that there existed a lease deed may be for a period of 15 years does not make any difference in this regard.

3. The petitioner presented lease deed, dated 18.11.2009, in respect of the property referred to above for registration. Stamp duty of Rs. 2,46,300/- and registration charges of Rs. 8,210/- were paid. On finding that the document accords with the relevant provisions of law, respondent No. 3 admitted the same for registration.

4. The necessity has arisen for the petitioner to seek rectification of the lease deed in the context of the period of lease. Therefore, a deed of rectification, just mentioning the period as 30 years even while keeping other terms of lease in tact, was executed and presented for registration. Respondent No. 3 has calculated the stamp duty payable for lease deed for a period of 30 years in respect of the said property at Rs. 5,29,335/- and registration fee at Rs. 12,295/-. Had the lease deed for a period of 30 years been executed for the first time, there would certainly have been justification for respondent No. 3 in levying the entire amount referred to above. The very deed of rectification discloses that there existed a lease deed for a period of 15 years and the rectification has the effect of extending the term of lease by another 15 years. Respondent No. 3, at the most, could have collected the stamp duty and registration charges for the extended period may be in terms of Clause (v) of Article 31 of the Act. The reason is that the parameters for determination of the stamp duty on lease deed fluctuate depending upon the duration of the lease. Once the petitioner has paid the stamp duty and registration charges for the lease for a period of 15 years, the same was required to be taken into account. There was no justification for respondent No. 3 in collecting the stamp duty for the entire period on the deed of rectification.

5. Hence, the writ petition is allowed and respondent No. 3 is directed to refund the stamp duty and registration charges paid on lease deed, dated 18.11.2009, to the petitioner in case the stamp duty and registration charges for the entire period of 30 years is levied on the deed of rectification, dated 11.10.2010. This

exercise shall be completed within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs. The miscellaneous petition filed in this writ petition also stands disposed of.

