(2013) 09 MAD CK 0078

In the Madras High Court

Case No : Writ Petition No. 24744 of 2005 and W.P. M.P. No. 27100 of 2005

Mrs. Renu Sood APPELLANT

Vs

The Chief Controller and Revenue Authority, The District Revenue Officer and The Sub-Registrar RESPONDENT

Date of Decision : 25-09-2013

Acts Referred:

Citation : (2013) 09 MAD CK 0078

Hon'ble Judges : Ravichandra Baabu, J

Bench : Single Bench

Advocate : V. Lakshminarayanan, for the Appellant; N. Sakthivel, GA, for the Respondent

Judgement

Ravichandra Baabu, J.—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. 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.

2. Heard the learned counsel appearing on either side.

3. 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.

4. 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 u/s 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.

5. 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.

6. 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. 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.