452

Proceedings of the Chief Controlling Revenue Authority and Inspector General of Registration, Chennai-600 028
Present: Thiru.Dinesh Ponraj Oliver, I.A.S.,

No.45591/P1/2023 Dated.25.07.2024

Sub : Revision Petition--Document No. P.125/2023, Sub Registrar office,Konnur–received under section 56(1) of the Indian Stamp Act, 1899 against the order passed by District Registrar, Chennai North - order issued – regarding.

Ref : 1.District Registrar, Chennai North order No.11148/B1/2023 dated 16.10.2023
2. Revision Petition dated 1.12.2023 received from Thiru.V.Dharmesh

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ORDER:

The revision petition 2nd cited has been filed under section 56 (1) of the Indian Stamp Act, 1899 before the Chief Controlling Revenue Authority against the order 1st cited passed by the District Registrar, Chennai North wherein it has been ordered to pay deficit stamp duty of Rs.4,15,07,200/- and penalty of Rs.3000/- in respect of document No.P.125/2023 on the file of Sub Registrar office, Konnur. The petitioner was heard by Inspector General of Registration on 5.3.2024.

2) Facts of the Review Petition are as follows:-

Document No.	No.P.125/2023
Office	Sub Registrar office, Konnur
Date of Execution	08.05.2023
Title	SALE DEED
Executant	M/s.The Chennai Metropolitan Co-Operative Housing Society Limited
Claimant	Mr.M.V.Dharmesh
Consideration & Value set forth in	Rs.10,73,85,556/-

(P.T.O)

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the document	
Market Value of Property as per Market value Guidelines	Rs.59,29,60,000/-
Stamp Borne by the deed	Nil
Nature of document as determined by the District Registrar	SALE DEED
Deficit stamp duty & penalty determined by the District Registrar	Rs.4,15,07,200/- & Rs.3000/-

Through the sale deed in question an extent of 3.40 Acres of the land comprised in Survey No.540/1 in Ayanambakkam village is conveyed by M/s.The Chennai Metropolitan Co-Operative Housing Society Limited to in favour of Mr.M.V.Dharmesh for a sale consideration of Rs.10,73,85,556/-

Previously the said land in survey no.540/1 measuring extent of 3.40 Acres was standing in the name of Mr.S.Sunil Kumar S/o.Shyam vide sale deed document registered as No.6076/2007.

Thereafter, Mr.Sunil Kumar appointed one Mr.P.Raju as his power agent vide document No.2374/2007 to develop and sell the aforesaid property. Mr.P.Raju sold the above said property in favor of M/s.Chennai Metropolitan Co-Operative Housing Society vide sale deed No.817/2008 on the file of Sub Registrar, Ambattur.

The recitals of the sale deed in question states that as M/s.Chennai Metropolitan Co-Operative Housing Society found that they could not promote the said land into housing plots, gave an offer to Mr.S.Sunilkumar represented by his power agent Mr.P.Raju that they could re-convey the land, provided the sale consideration along with interest is paid. Accordingly, Mr.S.Sunil Kumar represented by his power agent nominated Mr.M.V.Dharmesh (Purchaser herein). Based on the above, through the instant document the property is conveyed for a sale consideration of Rs.10,73,85,556/-.

(P.T.O)

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Under the notion that stamp duty exemption provided under G.O.Ms.No.2179 dated 29.06.1966 is applicable for the instant sale deed the same has been presented for registration without any stamp duty and registration fees of Rs.21,48,330/- has been paid for the document. The said document was impounded by the registering officer under the impression that the same is ineligible for stamp duty exemption under the aforesaid G.O. Accordingly based on the Market value of property Rs.59,29,60,000/- the registering officer forwarded the document to the District Registrar for further action. Vide proceedings 2nd cited, the District Registrar concluded that since the Bye-Laws of 'The Chennai Metropolitan Co-Operative Housing Society Limited' does not mention any G.O's received for stamp duty exemption and also for the reason that claimant Mr.M.V.Dharmesh does not provide any document evidence (proof or resolution) for being the member of the above society, the instant sale deed document is not eligible for stamp duty exemption and hence determined the deficit stamp duty as Rs.4,15,07,200/- and penalty as Rs.3000/-. Aggrieved over above order, present revision petition has been filed.

3) The petitioner was heard on 5.3.2024.

Major contentions of the revision petitioner:

(i) Vendor M/s.Chennai Metropolitan Co-operative Housing Society Ltd is a society registered under the Tamil Nadu Co-Operative Society Act and the Purchaser is a member of the vendor Co-operative society.

(ii) As per G.O.Ms.2179 (Co-operation) dated.29.06.1966, stamp duty remission is applicable to 'any document' executed by the Co-operative Society in favor of its member, if the transaction relates to the business of such society.

(iii) The first proviso of the G.O which is applicable to a House construction society cannot be applied to this case.

(P.T.O)

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(iv) The Chief Controlling Revenue Authority cum Inspector General of Registration in his order No.17508/P1/2014 dated 07.05.2014, 23300/P1/2006 dated 23.10.2008, 23413/P1/2006 dated 14.12.2006 held that Chennai Metropolitan Co-operative Housing Society Limited is not an House Construction Co-operative Society and hence two conditions prescribed in the provisos of the aforesaid G.O. cannot be applied for granting remission of stamp duty.

(v) It is not a case where the member of society conveyed the property to the House construction Society.

(vi) This is not a consignment scheme, wherein the society purchases the plots in layout formed by the erstwhile owner and then conveying the same to its member.

(vii) Action of the District Registrar in having adopting the Guideline Value fixed afresh while passing orders under section 40 of the Indian Stamp Act, 1899 is not supported by provisions of the Act.

(viii) No reason has been shown by the District Registrar for exorbitant demand made in her order. The deficit stamp duty arrived by the District Registrar contains arithmetical error.

(ix) In an instance when the stamp duty exemption was denied in respect of sale of land earmarked for community hall by Chennai Metropoliton Co-operative Housing Society ltd in favour its member, Hon'ble High Court in W.P.No.16914/2014 on 23.1.2020 held that such denial of exemption as unsustainable.

(P.T.O)

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4) Contents of revision petition, connected records received from the District Registrar, arguments advanced on behalf of the petitioner have been carefully examined by me.

Clause (1) of G.O.Ms.No.2179, Cooperation, dated 29.06.1966 which remits the stamp duty in the case of the registered Co-operative societies reads as follows;

"Instruments executed by or on behalf of any such society, or by an officer or member thereof and relating to the business of such society. "

Thus two basic requirements have been stipulated in the said G.O, for availing stamp duty exemption, viz.,

(i) Document should have been executed by or on behalf of any cooperative society or by an officer or member thereof.

(ii) Document should relate to the business of the society.

As far as the 1st part of the aforesaid requirements, it is seen that in the case on hand, a land having an extent of 3.40 acres which was earlier acquired by the society from its member is being sold to the nominee of the erstwhile seller. As per the recitals of the document in question, incidentally the nominee seems to be a member of the society inducted as member on 3.5.2023, 5 days prior to the execution of the sale deed in question. However it is not apparent from the file of District Registrar, whether the membership is backed by any documentary evidence. In case such claim is backed by proof, the document in question can be considered to have been executed by the Cooperative society in favour of its member.

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The next point that arises for consideration is whether the the action of the society in selling the 3.40 acres of land to its member can be held to be within the objects of the society so as to make it eligible for availing the stamp duty remission under G.O.Ms.No.2179, Cooperation, dated 29.06.1966.

As far as the fulfillment of aforesaid 2nd part of the requirement stipulated in the said G.O, a perusal of byelaws of the society submitted at the time of hearing shows that Bye law No.2 (ii), (iii), (vi) (b), No.12, No.14, provide for acquiring land or house sites or house or flat and selling land for carrying out the objects of the society. A combined reading of these byelaws leads to unequivocal conclusion that transactions of the society with its members which are aimed at providing housing facility to its members could alone be construed as transactions in furtherance of its objects. For instance, acquiring land from the member for the purpose of developing the same as house sites would be in furtherance of its objects. Likewise, the act of selling the house sites of the layout developed by the society would also be in furtherance of society's object. Thus the action of the society in conveying whole property to its member by no stretch of imagination can be construed as providing housing facility to its member.

Therefore the action of the society in having conveyed an extent of 3.40 acres of land, not being a house site to its member would not tantamount to 'business of the society'. Therefore the document in question does not fall within the scope of G.O.Ms.No.2179, Cooperation, dated 29.06.1966.

At this juncture it would be pertinent to note that the Hon'ble Supreme Court in Union of India and Ors. Vs Wood Papers Ltd and Anr. (AIR 1991 SC 2049) held that exemption notification particularly in fiscal matters has to be strictly construed and the person claiming its benefit is obliged to satisfy that his claim

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was covered by the exemption notification and also that the notification has to be read in its entirety and not in parts.

Further Hon'ble Supreme Court of India in Appeal (civil) 3556 of 1984, Novopan India Ltd., Hyderabad Vs Collector Of Central Excise, has held that 'The principle that in case of ambiguity, a taxing statute should be construed in favour of the assessee - assuming that the said principle is good and sound - does not apply to the construction of an exception or an exempting provision; they have to be construed strictly. A person invoking an exception or an exemption provision to relieve him of the tax liability must establish clearly that he is covered by the said provision. In case of doubt or ambiguity, benefit of it must go to the State.'

In view of the aforesaid legal position, the appeal is hereby dismissed and the order of the District Registrar is upheld.

Sd/– Dinesh Ponraj oliver /– 25.07.2024
Chief Controlling Revenue Authority &
Inspector General of Registration.

/By Order/

District Registrar (Inspection)

To

1. Mr.V.Dharmesh,
No.A–1–03, Naveens Daytown Heights,
52/76, Nelson Manickam Road,
Aminjikarai,
Chennai – 600 029.

2. District Registrar,
Chennai (North)
(With original file)

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