



IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22ND DAY OF JULY 2008

BEFORE

THE HON'BLE DR. JUSTICE K.BHAKTHAVATSALA

WRIT PETITION No.18043/2006 (GM-ST/RN)

BETWEEN

1 PRASAD TECHNOLOGY PARK PVT LTD
OFFICE AT NO 285/9, 17 CROSS,
SADASHIVANAGAR, BANGALORE 80
REP BY ITS MANAGING
DIRECTOR S PRASAD

... PETITIONER

(BY SRI S V GIRIDHAR, ADV.)

AND :

1 THE SUB REGISTRAR KRISHNARAJAPURAM
BANGALORE

2 THE DEPUTY COMMISSIONER OF STAMPS
NO 32, JAMUNA COMPLEX
5 MAIN, GANDHINAGAR
BANGALORE 9

... RESPONDENTS

(BY SRI R B SATYANARAYAN SINGH, HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO PAY TO THE PETITIONER A SUM OF RS.1,45,105/- TOGETHER WITH INTEREST AT THE RATE OF 24% PER ANNUM FROM 18.6.2001 TILL THE DATE OF REPAYMENT ENTIRETY; DIRECT THE RESPONDENTS TO PAY TO THE PETITIONER A SUM OF RS.28,920/- TOGETHER WITH INTEREST AT THE RATE OF

24% PER ANNUM FROM 18.6.2001 TILL THE DATE OF REPAYMENT IN ENTIRETY & ETC.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioner is before this Court praying for writ of mandamus directing the respondents to pay the petitioner a sum of Rs.1,45,105/- plus a sum of Rs.28,920/- together with interest @ 24% per annum from 18.6.2001 till the date of repayment and order costs of the present and other proceedings instituted.

2. The brief facts of the case leading to the filing of the writ petition may be stated as under:

The petitioner is the lessee in respect of the property bearing Plot No.97, EPIP Industrial Area, Hoodi Village, Krishnarajapuram Hobli, Bangalore South Taluk, on lease cum sale executed on 5.3.1999 for a period of 11 years. The petitioner presented



a supplementary deed drawn on stamp paper of Rs.100/- for registration on 24.4.2000 before the respondent no.1. The deed was impounded on the ground that it was insufficiently stamped and demanded that the petitioner shall pay a sum of Rs.1,45,105/- towards deficit stamp duty and a sum of Rs.28,920/- towards registration charges. The petitioner disputed the demand. Subsequently paid the same under protest. The petitioner challenged the order demanding to pay duty and registration charges in W.P.No.2632/2001. On 11.8.2003, the said writ petition was dismissed. The petitioner filed writ appeal in W.A.No.8087/2003, but the same was dismissed. He approached the Apex Court, ~~and the Apex Court~~. The Apex Court by the order dated 9.12.2005 held that supplementary agreement is neither a deed of lease nor a deed of sale within the meaning of Section 105 or Section 54 of the Transfer of Property Act as the case may be. It is further held that Article 5(d) of the Schedule

* Deleted vide Chamber Order dated 30.9.2008

to the Act shall have no application and the residuary clause contained in Article 5(f) (i) would apply. It was held that the High Court was not correct in holding that the petitioner was liable to pay the stamp duty and quashed the judgments of this Court and consequently allowed the Civil Appeal holding that the petitioner was entitled to costs.

3. In spite of the order of the Apex Court, the respondents have not refunded the amount deposited by the petitioner though legal notice was issued. Subsequently, the petitioner filed a contempt case in CCC Civil No.452/2006 before this Court. For the reasons stated in the order made by the Contempt Court on 13.11.2006, the Court came to a conclusion that there was no need to take cognisance of the contempt petition and rejected contempt petition without reference to the respondents. Therefore, the petitioner

is before this Court praying for the relief as mentioned above.

4. The respondents are represented by learned Govt. Pleader.

5. Learned Govt. Pleader has produced a Govt. Order dated 20.6.2008 regarding refunding of the stamp duty and registration charges in all amounting to Rs.1,74,025/- and the same was paid by way of Treasury Cheque on 4.7.2008 in favour of the petitioner. Therefore, it is submitted that the writ petition becomes infructuous and the question of awarding interest on the above said amount and costs do not arise.

6. Learned counsel for the petitioner submits since the petitioner was unnecessarily driven to file contempt petition and the present writ petition and the petitioner was made to further suffer after the Apex Court

order and the respondents have not paid the amount in time, the petitioner is entitled for interest on the unpaid amount and costs.

7. The Apex Court allowed the Civil Appeal on 8.12.2005. The petitioner filed a contempt case in the year 2006. But the respondents did not care to comply the order of the Apex Court and refund the amount of Rs.1,74,025/-. Therefore, the petitioner is entitled for interest and also costs. On account of inaction and harassment given by the respondents, the petitioner is entitled to succeed in this petition. The refund made by the respondents by cheque dated 4.7.2008 will not absolve the respondents. The petitioner has sought for awarding interest @ 24% per annum. In my view, it is just and proper to award interest @ 12% per annum from 18.6.2001 till 4.7.2008 and costs of Rs.10,000/-.

8. For the reasons stated supra, the petition is partly allowed and the respondents are directed to pay interest @ 12% on Rs.1,74,025/- from 18.6.2001 till 4.7.2008 and also pay costs of Rs.10,000/-. The interest and costs granted in favour of the petitioner should be deposited by the respondents in this Court within two months from today and intimate the petitioner. If the amount is deposited by the respondents, the registry is directed to release the same in favour of the petitioner.

Govt. Pleader is granted three weeks to file his memo of appearance.

vfp/-

Sd/-
Judge