IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

MONDAY, THE 9TH DAY OF FEBRUARY 2015/20TH MAGHA, 1936

WP(C).No. 3988 of 2015 (W)

PETITIONER(S):

P.V.GEORGE, AGED 61 YEARS,
S/O. MATHEW, PULIKKAD HOUSE, KOLIKADAVU,
PAYAM P.O., KANNUR DISTRICT.

BY ADVS.SRI.JIJI THOMAS
SMT.SMITHA MATHEW
SRI.P.R.ASHOK KUMAR

RESPONDENT(S):
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1. STATE OF KERALA,
   REPRESENTED BY ITS SECRETARY, DEPARTMENT OF REVENUE,
   THIRUVANANTHAPURAM-695 001.

2. DISTRICT COLLECTOR,
   CIVIL STATION, KANNUR-670 002.

3. SUB REGISTRAR,
   SUB REGISTRAR OFFICE, IRITTY, KANNUR-670 703.

4. DISTRICT TREASURY OFFICER,
   DISTRICT TREASURY OFFICE,
   MATTANNUR,KANNUR-670 702.

5. SUB TREASURY OFFICER,
   SUB TREASURY OFFICE, IRITTY, KANNUR-670 703.

BY GOVERNMENT PLEADER SRI.K.C.VINCENT

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 09-02-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

msv/

WP(C).No. 3988 of 2015 (W)

APPENDIX

PETITIONER(S)' EXHIBITS

EXT.P1. ACOPY OF THE SALE DEED NO. 238/11 DATED 17-01-2011.

EXT.P2. ACOPY OF THE LAND TAX RECEIPT DATED 25-06-2014.

EXT.P3. ACOPY OF THE LETTER DATED 28-01-2011 ISSUED BY THE 5TH RESPONDENT.

EXT.P4. ACOPY OF THE CLARIFICATION LETTER DATED 1-7-2011.

EXT.P5. ACOPY OF THE JUDGMENT IN WP(C) NO. 58/15 DATED 6-01-2015.

RESPONDENT(S)' EXHIBITS:
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NIL

//TRUE COPY//

P.A.TO JUDGE.

Msv/

P.R. RAMACHANDRA MENON, J.

W.P.(C) No.3988 of 2015

Dated this the 9th day of February, 2015

<u>JUDGMENT</u>

The petitioner has approached this Court with the following prayers:

> *"i) issue a writ of mandamus or any other appropriate writ, order or direction to direct the Dist. Collector (2nd respondent) to invoke sec.32(1) of the Stamp Act*
>
> *ii) issue a writ of mandamus or any other appropriate writ, order or direction to direct the Dist. Collector (2nd respondent) not to charge any further stamp or other duty on the petitioner, while passing orders under section 32(1) of the Stamp Act;*
>
> *iii) to declare that the petitioner is entitled to have the original of Ext.P1 to be certified as duly stamped and that he is not liable to pay any further duty for the same;*
>
> *iv) grant such other reliefs as this Hon'ble Court may deems fit and proper in the facts and circumstances of the case."*

2. When the matter is taken up for consideration, the learned Counsel for the petitioner places reliance on Ext.P5 judgment dated 06.01.2015 in WP(C) No.58 of 2015, wherein the relevant portion of the judgment in WP(C) No.28044 of 2014 is extracted, which is reproduced below, for the convenience of reference:

"2. Learned Government Pleader submits that a mistake occurred in many similar instances and the District Collector had written to the Government for general order to rectify the mistake and consider those documents as duly executed documents. It has been noted above that there are more than 130 documents in the particular Sub Registrar Office executed based on this mistake.

3. The Stamp Act only contemplates execution of a document of its denomination or stamp required for the document. The only dispute is that the stamp paper worth `25,000/- purchased for the purpose of execution of document is judicial stamp paper.

4. Learned Standing Counsel points out Sec.2(e) which read as follows:

"duly stamped" as applied to an instrument means that the instrument bears an adhesive or impressed stamp of not less than the proper amount and that such stamp has been affixed or used in accordance with the law for the time being in force in the territories of the State of Kerala."

5. In comparison with Sec.31, it is submitted that Sec.2(e) refers to instrument duly stamped. In Sec.31, it is referred fully stamped. It is further submitted that reference of fully stamped is giving power to the District Collector to adjudicate as to the proper stamp duty and once the District Collector is satisfied that appropriate stamp duty is fully levied, the District collector is competent to make an endorsement that this is fully stamped. I also find considerable force in this argument. 'Duly stamped' means, instrument bears stamp papers in accordance with the value of the document as contemplated under the relevant Rules. 'Fully stamped' means, in certain circumstance the District Collector or for any of the reason adjudicate that instrument bears proper stamp of the proper value. Therefore, the District Collector is competent to take decision in the matter. Admittedly, it is on account of mistake the document happened to be executed in a judicial stamp paper. That mistake can be corrected by the District Collector by exercising power under Sec.32(1) of the Stamp Act.

6. In view of the above, there shall be a direction

> *to the District Collector to make an endorsement that Ext.P1 document is fully stamped as there is no other dispute regarding the value of the stamp paper shown in Ext.P1. Needful shall be done within a period of three weeks from the date of receipt of a copy of this judgment."*

3. Heard the learned Government Pleader as well.

4. Considering the limited nature of relief pressed before this Court, it is not necessary to adjudicate the issue on merits. Accordingly, the writ petition is disposed of in terms of the above judgment.

The petitioner shall produce a copy of the judgment along with a copy of the writ petition before the second respondent/District Collector for further steps.

P.R. RAMACHANDRA MENON,
JUDGE

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