IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE K.VINOD CHANDRAN

WEDNESDAY, THE 10TH DAY OF JUNE 2015/20TH JYAISHTA, 1937

WP(C).No. 17310 of 2015 (K)

PETITIONER(S):

GEORGE,
AGED 32 YEARS, S/O.MATHAI,
PAKUZHY MAPPURATH (HOUSE), VAYATHOOR,
ULICKAL P.O., KANNUR (DISTRICT).

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

RESPONDENT(S):

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.BIJU MEENATTOR.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10-06-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

rvs.

APPENDIX

PETITIONER(S)' EXHIBITS :

EXT. P1: A COPY OF THE SALE DEED NO.696/2011 DATED 14.02.2011.

EXT. P2: A COPY OF THE LAND TAX RECEIPT DATED 02.05.2015.

EXT. P3: A TYPED COPY OF THE LETTER DATED 28.01.2011 ISSUED BY THE 4TH RESPONDENT.

EXT. P4: A COPY OF THE CLARIFICATION LETTER DATED 01.07.2011.

EXT. P5: A COPY OF THE JUDGMENT IN WPC.NO.7509/2015 DATED 25.03.2015.

RESPONDENT(S)' EXHIBITS :

NIL.

/TRUE COPY/

P.A.TO JUDGE

RVS.

K. VINOD CHANDRAN, J

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W.P(C) No. 17310 of 2015

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Dated this the 10th day of June, 2015

J U D G M E N T

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."

The learned counsel for the petitioner places reliance on Ext.P5 judgment dated 25.03.2015 in W.P.(C). No. 7509 of 2015, wherein the relevant portion of the judgment in W.P.(C). No. 28044 of 2014 is extracted and seeks to extend similar benefits to the petitioner as well. The said portion is reproduced below for 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."

2. Heard the learned Government Pleader as well.

3. Considering the limited nature of relief sought for, this Court does not find it necessary to adjudicate the issue on merits.

The writ petition is disposed of in terms of the above judgment, directing the District Collector/2nd respondent to make an endorsement that, Ext.P1 document is fully stamped if there is no other dispute regarding the value of the stamp paper shown in Ext.P1. The proceedings as above shall be finalized at the earliest, at any rate, within 'three weeks' from the date of receipt of a copy of the 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.

Sd/-
(K. VINOD CHANDRAN, JUDGE)

jma //true copy//

P.A to Judge