BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.11.2015
CORAM :
THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN
and
THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal(MD) No.1138 of 2015

1.The Tamil Nadu Chief Controlling
Revenue Authority cum Inspector General
Registration Department,
Santhome High Road,
Chennai 28.

2.The Special Deputy Collector (Stamp Duty),
Thanjavur.

3.The Joint Sub Registrar of Registration,
Office of the Joint Sub Registrar of Registration,
Sivagangai Garden,
Thanjavur Town & District. ... Appellants/Respondents

Vs.

S.Meenakshi ... Respondent/Petitioner

Writ Appeal is filed under Clause 15 of the Letters Patent against the order dated 20.03.2012 made in W.P.(MD)No.14538 of 2011.

Prayer in WP(MD). 14538/ 2011 :
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 1st respondent to pass appropriate orders directing the 2nd and 3rd respondent to receive the deficit stamp duty under “Samathan Scheme” as stipulated in G.O. Ms.No.132 dated 31.10.2011 for the Document No.1708/2002 in the office of the 3rd respondent and to release the same to the petitioner.

For Appellants : Mr.A.K.Baskarapandian,
Special Government Pleader.

For Respondent : Mr.K.Baalasundharam takes notice

JUDGMENT

(Judgment of the Court was delivered by V.RAMASUBRAMANIAN,J)

This writ appeal is filed by the Chief Controlling Revenue Authority cum Inspector General of Registration, challenging an order passed by the learned Judge in a writ petition filed the respondent directing the appellants to take up the case of the respondent under the samadhan scheme.

2.Heard Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the appellants. Mr.K.Balasundaram, learned counsel takes notice for the respondent.

3.The respondent purchased a property with a building under a sale deed dated 29.04.2002 for a sale consideration of Rs.9,50,000/-. The document was assigned No.1708/2002 after it was presented for registration on 06.05.2002. The respondent had paid stamp duty of Rs.1,14,000/- on the document.

4.It appears that the document was sent to the Special Deputy Collector under Section 47-A of the Indian Stamp Act, 1899 on the ground of under valuation. The respondent admittedly, received a notice from the office of the second appellant on 31.03.2008 demanding deficit stamp duty of Rs.72,440/-. The respondent appears to have submitted a representation dated 13.09.2008 at least for waiver of interest. However, the said request was rejected.

5.Thereafter, the respondent filed a writ petition in W.P(MD) No.14538 of 2011 seeking a mandamus to direct the appellants to receive the deficit stamp duty under the samadhan scheme floated in G.O.Ms.No.132, Commercial Taxes and Registration (J1) Department, dated 31.10.2011. This writ petition was allowed by the learned Judge by an order dated 20.03.2012. As against the said order, the Chief Controlling Revenue Authority cum Inspector General of Registration has come up with the above appeal.

6.We do not find anything wrong with the order of the learned Judge. The only grievance of the appellant is that the benefit of the samadhan scheme under G.O.Ms.No.132, Commercial Taxes and Registration (J1) Department, dated 31.10.2011 is applicable to cases pending consideration at whatever stage, on 31.07.2011. Paragraph 5 of the said Government Order reads as follows:-

“5.As announced in the Budget Speech 2011-12, the Government have decided to implement a 'Samadhan Scheme' by giving a remission of 1/3rd of the difference of stamp duty between the duty already paid and what is chargeable on the value of the properties (both for land and buildings including chargeable assets) as proposed by the registering officer on the basis of guideline Register in respect of land and the PWD schedule of Rates in respect of buildings. The Government issue the following instructions in this regard:-

(a)The stamp duty remission shall be given in respect of instruments pending as on 31/7/2011 under Sections 47A(1), 47A(3), 47A (5), 47A(6), 47A(10) and 19B(4) of the Indian Stamp Act, 1899 for determination of market value and also in respect of instruments registered and pending with the registering officer as on 31/07/2011 for referring to the Collector under sub-section(1) and (3) of section 47-A and sub-section (4) of section 19B of the said Act for determination of market value;

(b)The scheme shall be in operation for a period of three months from the date of notification;

(c)The deficit stamp duty shall be collected in the Sub-Registrar office concerned”.

7.The grievance of the appellants is that the case of the respondent does not fall within the parameters of paragraph 5 of the scheme itself, inasmuch as the order passed in 2008 determining the deficit stamp duty was not pending in appeal before any forum.

8.It is true that if a person does not fall within the criteria laid down in the Government Order, for the benefit of a samadhan scheme, he may not be entitled to the benefit. But in the case on hand, the positive assertion of the respondent was that after the final notice dated 31.03.2008, she never received any order. Unless an order had been received under Section 47-A(1), the question of the respondent taking up the same on further appeal to the next higher authority would not arise. It is admitted even in the memorandum of appeal that if the respondent had filed a statutory appeal as against the order of the Special Deputy Collector and if that statutory appeal was pending as on 31.07.2011, she would have been entitled to the benefit. If that is so, we do not know what is wrong in extending the benefit of the samadhan scheme to the respondent.

9.The appellant should not lose sight of the object of the Government floating the samadhan scheme. A samadhan scheme floated at a particular point of time is to bring to an end a majority of the disputes that are pending as on that date. Therefore, the writ appeal is devoid of merits and hence, it is dismissed. No costs. Consequently, M.P(MD)No.1 of 2015 is closed.

Sd/-
Assistant Registrar(AE)

/True copy/

Sub Assistant Registrar

To
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Sivagangai Garden,
Thanjavur Town & District.

+1cc to Mr.K.Baalasundharam, Advocate SR.No.64210
+1cc to The Special Government Pleader, Madurai. SR.No.64531

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02.11.2015

sms
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