



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 27.07.2015

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P (MD) No.13118 & 13119 of 2015
and M.P (MD) Nos.1 of 2015

P.Palanikumar ..Petitioner in W.P. (MD) .No.13118 of 2015
S.Saravanan ..Petitioner in W.P. (MD) .No.13119 of 2015

Vs

1.The Inspector General of Registration,
Santhome High Road, Chennai - 600 003.

2.The District Registrar,
Office of the District Registrar,
No.58/1, Katcheri Road,
Virudhunagar, Virudhunagar District.

3.The Sub-Registrar,
Sub-Registrar's Office, Seithur,
Virudhunagar District. ..Respondents in both WPs

Prayer: Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue Writs of Certiorari calling for the records relating to the impugned notice, dated Nil issued by the third respondent and to quash the same.

For Petitioners :M/s..P.Athimoolapandian

For Respondents : Mr.N.S.Karthikeyan
Govt.Advocate

COMMON ORDER

Both the Writ Petitions have been filed praying this Court to issue Writs of Certiorari to call for the records relating to the impugned notice, dated Nil issued by the third respondent herein and to quash the same. By the said notice, the respondents herein have demanded shortage of deficit court fee to be payable by the petitioners herein.

2. Heard the learned counsel appearing for the petitioners as well as learned Govt.Advocate and perused the materials available in the typed-set of papers.

3. When the matter is taken up for hearing, both the parties have brought to the notice of this Court that in similar circumstances



this Court has passed the following order in **W.P. (MD).No.18646 of 2014** dated **09.03.2015**, wherein, the relevant paragraph are usefully extracted below:-

" 3. According to the Petitioner, the document in question has been registered in the year 2011. Even if there is any difference in the registration of the document, the authority would call for an explanation from the Petitioner within three years from the date of registration of the document.

4. The impugned order without date was served in the year 2014 much after three years from the date of registration and the impugned order is passed without issuing any notice and calling for explanation from the Petitioner.

5.The Petitioner also placed reliance on a decision reported on **2003-2-L.W. 160(O.N.S.Hyder Ali .vs. The Sub-Registrar,District Registrar Cadre, Madras-1)**,wherein, this Court has held that as per the provisions under Section 33-A of the Registration Act, there cannot be any levy of tax after a period of three years and without notice and the facts of the present case squarely falls within the ambit of the above cited decision.

6. A careful perusal of the order itself denotes that the present order has been issued after a period of three years after registration. In fact, in the impugned order, there is no date. It is served much after three years. There is no notice issued before passing of the impugned order. In this case as rightly pointed out by the learned counsel for the Petitioner, it is squarely falls within the principle laid down in the above referred decision.

7.In view of the fact that the authority has not given any reason while passing the impugned order, the Writ Petition is allowed and the order impugned herein is set aside and it is also open to the authority concerned to issue fresh notice, if it is provided under the Act and pass order afresh in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed."

4. In view of the above, following the order made in **W.P. (MD). No.18646 of 2014 dated 09.03.2015**, this Writ Petition is also allowed making it clear that it is open to the authority concerned to issue a fresh notice to the petitioners herein, if it is provided under the Act and pass orders afresh, on merits and in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar



1.The Inspector General of Registration,
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Sub-Registrar's Office,
Seithur, Virudhunagar District.

+1CC to M/S.P.Athimoola Pandi Advocate SR.No.41893

W.P(MD)No13118 & 13119 of 2015

Dated: 27.07.2015

GJM 14.8.15-3P/5C