

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.04.2016

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THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.10270 of 2016

and

WMP.No.9103 of 2016

P.Rajakumari

... Petitioner

vs.

1.The District Revenue Officer (Stamps)
District Collector Office,
Singaravelar Building, 5th Floor,
32, Rajaji Salai,
Chennai 600 001.

2.The Sub Registrar,
Office of Sub Registrar,
Poonamallee,
Tiruvallur District.

... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of Certiorari, to call for the connected records of the impugned order dated 13.11.2015 passed by the first respondent herein in his proceedings in Na.Ka.Si.Pa.No.64/13/A5 and quash the same.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.P.Sanjay Gandhi, AGP

ORDER

Challenging the order dated 13.11.2015 passed by the first respondent, the petitioner has come up with the present writ petition.

2. It is the case of the petitioner that she had purchased a vacant site measuring to an extent of 7379 sq.ft. for the sale consideration of Rs.29,51,600/- from one Srinivasan and three others through their power of attorney agent P.Sekar, in and by virtue of sale deed dated 11.10.2011. Though the second respondent has registered the said sale deed as Document No.2052/2011, after receipt of the required stamp duty, based on the prevailing market value from the petitioner, he retained the document for site inspection and thereafter, insisted for

payment of deficit stamp duty to the tune of Rs.59,040/-, which was also paid by the petitioner on 12.10.2011. After purchasing the said property, the petitioner has settled the same in favour of her husband by virtue of deed of settlement, which was registered as Document No.466/2012 dated 21.02.2012 on the file of the Sub Registrar office, Poonamallee. Thus, from the date of settlement deed, her husband became the absolute owner of the said property.

3. It is the further case of the petitioner that while so, the petitioner was informed that a recovery proceedings has been initiated against her, with regard to payment of deficit stamp duty in connection with the purchase of the property on 11.10.2011. Consequently, she was issued with a notice dated 11.10.2011 issued by the second respondent, calling upon her to pay the deficit stamp duty of Rs.2,35,216/- coupled with registration fee of Rs.37,265/- in total of Rs.2,72,481/- in respect of the document No.2652/2011 on the file of the Sub Registrar, Poonamallee, based on the internal audit. On receipt of the same, the petitioner approached the second respondent and asked for the reason, but she was not given any reply. Subsequently, she received a notice in Form-I dated 24.06.2013 from the first respondent, calling upon her to pay the deficit stamp duty under section 47-A(3) of the Indian Stamps Act. As there was no reason assigned for demanding the alleged deficit stamp duty, she made a representation dated 12.12.2014 to the first respondent requesting to withdraw the demand. Without considering her representation, the first respondent passed the impugned order dated 13.11.2015, calling upon the petitioner to pay the deficit stamp duty of Rs.2,35,216/- within two months, failing which, interest at 1% per month would be levied. Aggrieved over the same, the present writ petition came to be filed before this court.

4. When the matter came up for consideration, learned counsel for the petitioner submitted that without providing an opportunity of personal hearing to the petitioner, the first respondent has passed the impugned order, which is against the law and in violation of the principles of natural justice.

5. Heard the learned Additional Government Pleader appearing for the respondents.

6. In view of the submission so made by the learned counsel for the petitioner, this Court, in the interest of justice and also in order to provide an opportunity to the petitioner, is inclined to set aside the order passed by the first respondent. Accordingly, the order dated 13.11.2015 passed by the first respondent is set aside. The petitioner is permitted to submit a fresh representation, enclosing all the necessary documents in support of her claim, to the first

respondent within a period of two weeks from the date of receipt of a copy of this order. On such submission, the first respondent is directed to consider the same by affording an opportunity of personal hearing to the petitioner and pass appropriate orders, on merits and in accordance with law, within a period of six weeks thereafter.

7. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Revenue Officer (Stamps)
District Collector Office,
Singaravelar Building, 5th Floor,
32, Rajaji Salai,
Chennai 600 001.
- 2.The Sub Registrar,
Office of Sub Registrar,
Poonamallee,
Tiruvallur District.

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.23702
+1cc to the Government Pleader, S.R.No.24224

SKS (CO)
EU(13/06/2016)

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