IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH
W.P.No.786 of 2013
and M.P.Nos.1 & 2 of 2013

Sayath Salam Sayeepu
.. Petitioner

Vs

1.The Special Deputy Collector,
(Stamps) Vellore and Thiruvannamalai District,
Collectorate, Sathuvachari,
Vellore-9.
2.The Sub-Registrar,
Kadladi, Thiruvannamalai District.
.. Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorari calling for the records relating to impugned order dated 31.01.2006 in Pa.KuMu Ka.No.692/05 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.r.Margabandhu
For Respondents : Mr.V.S.Ramesh
Government Advocate

O R D E R

This petition has been filed seeking for issuance of a writ of Certiorari calling for the records relating to impugned order dated 31.01.2006 in Pa.KuMu ka.No.692/05 on the file of the 1st respondent and quash the same.

2. Heard Mr.R.Margabandhu, learned counsel appearing for the petitioner and Mr.V.S.Ramesh, learned Government Advocate appearing for the respondents.

3. The learned counsel for the petitioner would submit that the petitioner had presented a sale deed dated 25.04.2005 to the second respondent for registration and on receipt of the same, a reference was made to the first respondent, who issued notice under rule 4(1) of Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rule 6, 1968, in his proceedings

C.Pa.No.692/2005 dated 10.05.2005. Pursuant to the reference, the first respondent has called for explanation from the petitioner for determination of deficit stamp duty. The petitioner has also given a detailed explanation. After consideration of the explanation, the first respondent had passed a provisional order dated 31.01.2006, which is under challenge in the present writ petition.

4. The learned counsel for the petitioner would submit that the respondents had not followed the procedures contemplated under Rules 4 & 5 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules, while determining the provisional market value.

5. Though the learned counsel for the respondent had taken notice in the present writ petition as early as on 09.01.2012, no counter affidavit has been filed till date. As a matter of fact, when the writ petition came up on 20.10.2016, this Court had given another opportunity to the learned Government Advocate to get instructions, which turned futile.

6. Today, when the matter is taken up for hearing, the learned Government Advocate would also produce a letter which had served on the respondents informing them about the next date of hearing. However, no instructions have been received by him from the respondents. Under such circumstances, I have no other option but to proceed to pass final orders on the presumption that the respondents have no remarks to offer in the present case.

7. Rule 4 of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Rules provides that on receipt of reference from the Registration Officer, the Collector shall issue a notice in Form-1 to every person, by whom and in whose favour, the instrument has been executed, informing him the receipt of the reference and asking him to submit his representations, if any, in writing, to show that the market value of the property has been truly set forth in the instrument. In the present case, when the notice under Section 4(1) was issued the petitioner, he had given an explanation establishing that the provisional market value was not properly determined by the respondents. The parties to whom notice under Section 4(1) is given is for the purpose to offer an opportunity to the parties to the Sale Deed for obtaining their views with regard to the market value of the property and thereby establish the values set forth in the instrument. In the present case, though the petitioner has given his reply to the notice sent under Section 4(1), the respondent without reference to the same, has mechanically passed an order in a printed format as if no explanation was received from the petitioner. Under such circumstances, the entire procedure for

determining the provisional market value of the property covered under the sale deed is vitiated.

8. Hence, I am of the view that the impugned order is liable to be set aside and accordingly, the impugned order dated 31.01.2006 in Pa.KuMu Ka.No.692/2005 on the file of the 1st respondent is hereby quashed. The first respondent is directed to conduct a proper enquiry by following the procedures contemplated under Rule 4(1) of the Tamil Nadu Stamp (Prevention of under Valuation of Instruments) Act, after giving due opportunity to the petitioner and by considering any reply that may be given by the petitioner pursuant to notice under Section 4(1). The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order.

In the result, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True copy

Sub-Assistant Registrar

kkd

To

1.The Special Deputy Collector,
(Stamps) Vellore and Thiruvannamalai District,
Collectorate, Sathuvachari,
Vellore-9.

2.The Sub-Registrar,
Kadladi, Thiruvannamalai District.

+1 cc to Mr.R.Margabandhu Advocate sr 63592
+1 cc to the Government Pleader sr 63273

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