IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2016

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THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 28260 of 2016

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K.M. Akthar Basha .. Petitioner

Versus

1. Inspector General of Registration
   No.100, Santhome High Road
   Pattinapakkam
   Chennai - 600 028

2. The District Registrar
   Central Chennai
   No.182, Bharathi Salai
   Royapettah, Chennai - 600 014

3. The Sub-Registrar
   Periamet Sub-Registrar Office
   No.1103, Poonamallee High Road
   Periamet, Chennai - 600 003 .. Respondents

Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorari to call for the records of the order dated 15.02.2016 passed by the third respondent and quash the same.

For Petitioner : Mr. T. Velumani
For Respondents : Mr. R.A.S. Senthilvel
Additional Government Pleader

ORDER

The petitioner challenges a notice dated 15.02.2016 of the third respondent in and by which the third respondent called upon the petitioner to pay a sum of Rs.63,400/- towards deficit stamp duty on the basis of an audit objection.

2. The case of the petitioner is that he along with his brothers K.M. Ahamed Basha and K.M. Mohammed Usman jointly purchased the land measuring 2.00 acres in Survey No.241/1, Kailasagiri Road, Peravarikkam, Thuthipet Post, Ambur by a registered sale deed dated 02.09.1992. Subsequently, his brother K.M. Ahmed Basha executed a release deed dated 13.12.2014 registered as document No. 3261 of 2014 on the file of the third respondent thereby releasing 35% of his share in the land owned by him. According to the petitioner in the release deed, a reference was inadvertently made as if his brother retired from the partnership firm carried under the

name and style of Ahmed Trading Company. While so, the third respondent issued the impugned notice calling upon the petitioner to pay a defit stamp duty of Rs.44,300/- and Rs.19,100/- totalling a sum of Rs.63,400/- on the basis of the audit objection. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner submits that the impugned notice has been issued by the third rspondent not as a show cause notice but as a final order directing the petitioner to pay the deficit stamp duty determined on the basis of audit objection. The impugned notice has been issued without giving an opportunity to the petitioner and therefore it is in violation of principles of natural justice. In such circumstances, the learned counsel for the petitioner prayed for allowing the writ petition by setting aside the impugned notice.

4. On the above contention of the learned counsel for the petitioner, this Court heard the learned Additional Government Pleader who would only contend that the impugned notice has been issued on the basis of audit objection and therefore he prays for dismissal of the writ petition.

5. I heard the learned counsel for both sides. Admittedly, by way of the impugned notice, the petitioner was called upon to pay the deficit stamp duty on the basis of an audit objection. Before issuing the impugned notice, the petitioner was not given an opportunity to putforth his objection as to the alleged deficit stamp duty calculated by the third respondent. Therefore, the impugned order has been passed in violation of the principles of natural justice and on that ground alone, the impugned order has to be set aside. Accordingly, the impugned order is set aside. The matter is remanded back to the third respondent for fresh consideration. The third respondent is directed to issue a notice to the petitioner calling upon him to submit his objection for the deficit stamp duty payable by him and thereafter pass an order on merits and in accordance with law.

6. With the above direction, the writ petition is disposed of. No costs. Consequently, connected WMP No. 24391 of 2016 is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

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+1cc to Mr.T.Velumani, Advocate, S.R.No.46452

WP No. 28260 of 2016

AK(CO)
MA(29/12/2016)