

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.Nos.30566 to 30568 of 2016

And

W.M.P.Nos.26507 to 26509 of 2016

V.Selvam	... Petitioner in W.P.No.30566/2016
V.Ravi	... Petitioner in W.P.No.30567/2016
V.Jayaraman	... Petitioner in W.P.No.30568/2016

Vs.

1 The District Collector,
Villupuram District,
Villupuram.

2 The District Registrar,
Villupuram District,
Villupuram.

3 The Sub-Registrar,
Vikravandi,
Villupuram District.

4 The Special Deputy Collector (Stamps),
Cuddalore.

... Respondents in all W.Ps.

Common Prayer:

Petitions filed under Article 226 of the Constitution of India to issue Writ of Certiorarified Mandamus calling for the records of the 4th respondent in Ce.Pa.Nos.1241/15-16, 1240/15-16 and 1239/15-16 respectively, dated 19.8.2016 and quash the same and thereby direct

the 3rd and 4th respondents to release the sale deed dated 4.8.2015 and registered as Document Nos.2668/2015, 2667/2015 and 2666/2015 respectively, to the petitioners.

For Petitioners : Mr.N.Suresh
For Respondents : Mr.V.S.Ramesh
Government Advocate

C O M M O N O R D E R

By consent, these writ petitions are taken up for final disposal.

2.The grievance expressed by the petitioners is that though Form – 1 notices were issued to the petitioners, fixing the date of enquiry on 19.08.2016, it was received by them only on that date and therefore, they were not in a position to participate in the enquiry and prays for appropriate orders.

3.Heard the submissions of Mr.N.Suresh, learned counsel appearing for the petitioners and Mr.V.S.Ramesh, learned Government Advocate who accepts notice on behalf of the respondents.

4.In the light of the above said facts and circumstances, this Court is of the view that the impugned Form – 1 notices, warrant interference.

5.In the result, these writ petitions are partly allowed and the impugned Form – 1 notices, dated 19.08.2016 are set aside. The first respondent is directed to issue fresh Form – 1 notice to the petitioners fixing the date of enquiry, in advance, so as to enable the petitioners to have effective participation in the enquiry.

6.In the light of the judgment reported in **2002 [3] CTC 544 [B.Rajappa and another Vs. The Special Deputy Collector [Stamps], O/o.the Collectorate [V Floor], Singaravelar Maaligai, Rajaji Salai, Madras and 2 others]**, especially, paragraph no.15 which reads as under:

15 While appreciating the anxiety expressed on behalf of the State by the learned Advocate General, this Court directs that:-

"i) It is open to the Registering Authority to affix a seal, while releasing the original deed or conveyance or any other document indicating that a reference is pending under Section 47-A with respect to under-valuation and assessment of Stamp Duty payable, as and when the proceedings reach finality, the same shall be intimated to the person who is liable to pay stamp duty demanding payment of deficit Stamp Duty payable on the instrument.

ii)The Registrar to make corresponding entries under Section 54,55 of The Registration Act, 1908 in the Register of indexes as to pendency of proceedings under Section 47-A.

iii) On completion of adjudication as to under-valuation by the competent authority as well as appeal or revision, if any, thereof, and depending upon the ultimate decision, the said authorities to recover deficit stamp duty according to law.

iv) Till such proceeding reaches finality and deficit is paid, there will be a charge for the deficit stamp duty, which is the subject matter of transfer or conveyance.

v) On payment of deficit stamp duty, if any payable, the Registrar may once again, on production of the original deed of transfer, make appropriate entry and recording the additional stamp duty paid and release of charge and also make consequential entries in the registers/ indexes maintained under Sections 54, 55, etc., of The Registration Act."

the first respondent is directed to consider the request for release of the document made by the petitioners and pass orders, as expeditiously as possible and not later than two weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners.

7. The writ petitions are partly allowed. No costs. Consequently, the connected miscellaneous petitions are also closed.

01.09.2016

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Index: Yes/ No
Internet: Yes/ No

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M.SATHYANARAYANAN,J.
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