

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2016

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

W.P.No.5089 of 2016

and

WMP No.4428 of 2016

R.P.Darmalingam

...Petitioner

VS

The Sub Registrar,
Walajabad,
Kancheepuram District.

... Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the respondent relating to the Notice Na.Ka.No.173/SR/2015 dated 30.04.2015 and 21.09.2015 and quash the same.

For Petitioner : Mr.R.Murali
for M/s.M.Vivekanandan

For Respondent : Mr.R.A.S.Senthilvel,
Additional Government Pleader

O R D E R

Mr.R.A.S.Senthilvel, learned Additional Government Pleader, takes notice on behalf of the respondent. By consent of the counsel, the Writ Petition itself is taken up for disposal at the admission stage.

2. This Writ Petition has been filed challenging the impugned Demand Notices dated 30.04.2015 and 21.9.2015 wherein the petitioner was directed to pay a sum of Rs.16,12,268/- towards deficit registration fees and a sum of Rs.1,12,85,876/- towards deficit stamp duty with respect to Document No.1180/2013.

3. According to the petitioner, he had purchased some agricultural lands in New No.155 Valaiyakkarana Village, Sriperambudur Taluk, Kanchipuram District. In this

connection, a Sale Deed was registered as Document No.1180/2013 on payment of necessary Stamp Duty and Registration Fees as fixed by the respondent herein on 21.8.2015. Subsequently, the impugned Demand Notices were issued to the petitioners directing them to pay the amount as stated above.

4. The learned counsel for the petitioners would submit that the grievance of the petitioners is that no enquiry was conducted and no opportunity of hearing was afforded to him before issuing the impugned Demand Notices and therefore, there is violation of principles of natural justice in issuing the impugned Demand Notices. The learned counsel would further submit that, merely based on the audit report, the impugned Demand Notice were issued without any enquiry about the factual aspect, and therefore, they are not reasoned orders and the same are liable to be set aside.

5. Heard both sides.

6. After hearing the learned counsel for the parties and perusing the impugned Demand Notices, it is seen that prior to the issuance of the demand under section 33-A of the Act, the procedure required to be followed has not been complied with. The statute mandates that even after registration of any instrument under the Registration Act, if it is found that the proper stamp duty payable under the Act has not been paid or has been insufficiently paid, such duty or the deficit as the case may be, on a certificate from the Registrar of the District be recovered from the person liable to pay the duty as arrears of land revenue. In terms of first proviso to sub section 1 of Section 33 -A of the Act, no such certificate shall be granted by the Registrar of the District, unless the due inquiry is made and such person liable to pay the stamp duty should be given an opportunity of being heard.

7. In *Thomas George Versus Inspector General, Chief Controlling Revenue Authority, Chennai* and another reported in (2013) 2 MLJ 622 (Mad.), this Court has held that prior to issuance of demand notice, procedure contemplated under section 33-A(1) of the Act shall be complied with.

8. Admittedly, no record has been placed before this Court to show that prior to issuance of the impugned Demand Notices, the procedure contemplated under sub-section 1 of Section 33-A of the Act has not been complied with.

9. In view of the above reasons and taking note of the fact that provisions of Section 33-A of the Act has not been followed, the impugned Demand Notices are set aside and the Writ

Petition is allowed. No costs. Connected Miscellaneous Petition is closed. The matter is remitted back to respondent to conduct enquiry and provide an opportunity of hearing to the petitioner and to proceed afresh in the matter as contemplated under the Act.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

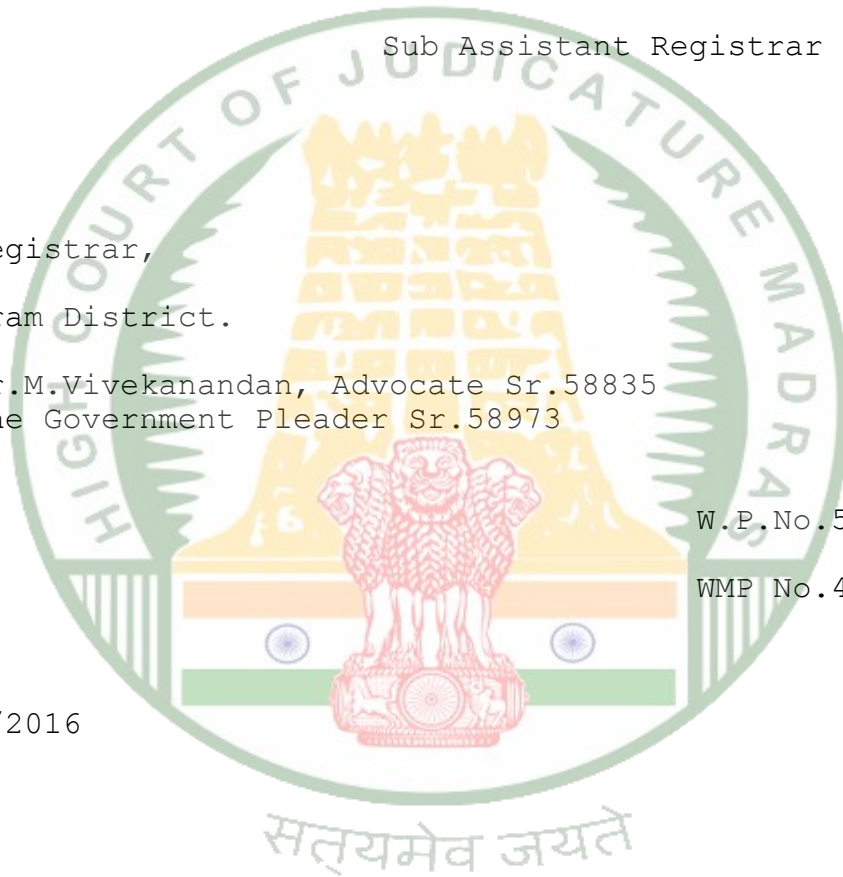
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The Sub Registrar,
Walajabad,
Kancheepuram District.

+1cc to Mr.M.Vivekanandan, Advocate Sr.58835
+1cc to the Government Pleader Sr.58973

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srg 30/11/2016



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