

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2016

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THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.9603 of 2016

And

W.M.P.No.8641 of 2016

Biju Chockko

... Petitioner

Vs.

- 1 Joint II Sub Registrar
Registration Sub District Thousand Lights,
182, Bharathi Salai, Royapettah,
Chennai-14
- 2 The District Revenue Officer (Stamps)
Chennai-1.
- 3 The Tamil Nadu Principal Revenue Controller
and Inspector General of Registration,
Mylapore,
Chennai-4.

... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling the impugned Notice issued by the 2nd respondent dated 11/01/2016 in respect of the Sale Deed dated 08/03/2011 registered as Document No.220 of 2011 on the file of the SRO Joint II, Thousand Lights (1st Respondent), and the final orders demanding a sum of Rs.1,74,740/- towards deficit stamp duty which is alleged to have been passed on 21/09/2015 bearing Na.Ka.C.Pa.No.5/13/A 2, undated 09/15 passed by the 2nd

respondent

and set aside the same and consequently restrain the respondents from taking any further action in respect of the aforesaid demand covered by the said impugned Notice and the alleged final order passed by the 2nd respondent pertaining to the property being a flat bearing No.4F, IV Floor, J.P.Towers previously bearing Door No.3, subsequently Door No.2 and thereafter Door No.2/4F, Old No.1/1, IVF, New Door No.1/27, Dr.Thirumoorthy Nagar Main Road, Nungambakkam, Chennai-600034, the superstructure comprising of built up area of an extent of 1100 square-feet inclusive of the share in the common area together with the undivided share in the land of an extent of 1100/56700 in the land measuring 5 grounds and odd comprised in R.S.No.146/3, O.S.No.5104, Nungambakkam Village, Egmore Nungambakkam Taluk, Chennai District.

For Petitioner : Mr.A.Palaniappan
 For Respondents : Mr.R.Govindasamy
 Special Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2.The petitioner through a sale deed bearing document no.220/2011 registered on the file of the Office of the Sub Registrar, Thousand Lights, had purchased certain items of properties and thereafter, he was issued with a notice under Form I of the Indian Stamp Act calling upon him to remit the deficit stamp duty of Rs.1,74,740/-. The petitioner in response to the same, submitted a

representation dated 13.08.2013 and thereafter, unsigned order of the second respondent dated 21.09.2015, was served on him and vide representation dated 03.12.2015, the said defect was pointed out and it is also stated that the relevant rules have not been followed, however, once again the second respondent has furnished the signed copy of the order dated 21.09.2015, confirming the said determination and challenging the legality of the order, the present writ petition came to be filed.

3.The learned counsel appearing for the petitioner has drawn the attention of this Court to the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 and would submit that Rules 6 and 7 have not been followed and therefore, the impugned order warrants interference.

4.Per contra, Mr.R.Govindasamy, learned Special Government Pleader who accepts notice on behalf of the respondents would submit that since the petitioner is having an effective alternative remedy under Section 47-A(5) of the Indian Stamp Act, the writ petition is not maintainable and prays for dismissal of the writ petition.

5.This Court has considered the rival submissions and also perused the materials placed before it.

6.In the light of the fact that an effective alternative remedy is available under Section 47-A(5) of the Indian Stamp Act, this Court is of the view that the writ petition is not maintainable. Since the writ petitioner is diligently prosecuting the proceedings, time limit for filing the appeal is to be extended.

7.Hence, this writ petition is disposed of and the petitioner is at liberty to file an appeal to the third respondent, within a period of two weeks from the date of receipt of a copy of this order and upon receipt of the same, the said Official shall entertain the appeal, if the papers are otherwise in order and pass orders, in accordance with law, within a further period of six weeks thereafter and communicate the decision taken, to the petitioner. No costs. Consequently, the connected miscellaneous petition is also closed.

30.08.2016

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Index: Yes/ No
Internet: Yes/ No

Note: Registry is directed to return the original of the impugned order to the learned counsel appearing for the petitioner under due

and proper acknowledgement.

To

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Registration Sub District Thousand Lights,
182, Bharathi Salai, Royapettah,
Chennai-14
- 2 The District Revenue Officer (Stamps)
Chennai-1.
- 3 The Tamil Nadu Principal Revenue Controller
and Inspector General of Registration,
Mylapore,
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M.SATHYANARAYANAN,J.

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