



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 12.07.2016

CORAM

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL

W.P(MD)No.12104 of 2016

and

W.M.P(MD)No.9231 of 2016

T.Johnraj

..Petitioner

Vs

The Sub-Registrar,
Kulathur @ Keeranur,
Keeranur Post,
Kulathur Taluk,
Pudukkottai District.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the records of the Respondent in Letter No.3 of 2016, dated 23.6.2016 and to quash the same as illegal and arbitrary at once.

For Petitioner :M/s.P.Ganapathi Subramanian

For Respondent :Mr.K.Mahesh Raja
Govt.Advocate

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.No counter is filed on behalf of the Respondent.

4.According to the Petitioner, he and his brother's wife Mrs. Mercy formed a partnership firm on 27.01.1999 and purchased the property measuring an extent of 5 acres in various sub-divisions of S.No.488 and purchased the property in question through a Court Auction Sale. Delivery Application was filed in E.A.No.38 of 2000 in E.P.No.142 of 1985 in High Court C.S.No.235 of 1978 and the delivery was recorded.

5.The real grievance of the Petitioner is that, to his shock and surprise, had received a communication in Letter No.3 of 2016, dated 23.06.2016 from the Respondent requiring him to pay a sum of Rs.6,26,508/- towards the alleged deficit stamp duty and registration fees in regard to the Inam Settlement Deed, dated 18.10.2010. As a matter of fact, he had purchased the stamp paper worth of Rs.10,180/- and paid the necessary registration fees at

the then prevailing rate. He had also executed a Settlement Deed in favour of his brother(who is a member of the same family) and the registration of the documents and the levy of stamp duty are perfectly in accordance with Law.

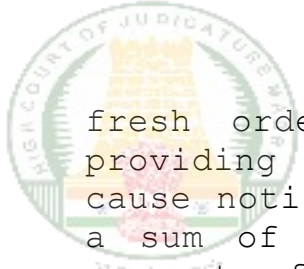
6.The pith and substance of the plea taken on behalf of the Petitioner is that there is no deficiency in purchase of stamp paper and also the demand of registration fees with regard to the execution of the document. Moreover, since the execution of the document satisfied the necessary stamp and registration fees, it is primarily contended that the Respondent/The Sub-Registrar, Kulathur @ Keeranur, Keeranur Post, Kulathur Taluk, Pudukkottai District had registered and released the document in accordance with Law.

7.At this juncture, the Learned Counsel for the Petitioner takes a primordial plea that the impugned letter of the Respondent, dated 23.06.2016 in Letter No. 3 of 2016 requiring the Petitioner to pay a sum of Rs.6,26,508/- towards the deficit stamp duty(which was found during audit) is per se illegal,arbitrary and against Law.

8.The Learned Counsel for the Petitioner urges before this Court that just because an audit objection was raised and also it was found out during the course of audit that the Petitioner is to pay a sum of Rs.5,57,548/- towards deficit stamp duty and also a further sum of Rs.68,960/- to be paid by him in respect of deficit registration charges, aggregating in all a sum of Rs.6,26,508/- is to be paid by him, is not correct because of the simple reason that the Petitioner was not provided with an opportunity to explain his position in regard to the demand made in the impugned letter, dated 23.06.2016 issued by the Respondent.

9.In this connection, this Court has perused the contents of the impugned letter, dated 23.06.2016 passed by the Respondent/The Sub-Registrar, Kulathur @ Keeranur, Keeranur Post, Kulathur Taluk, Pudukkottai District and is of the considered view that the impugned Letter, dated 23.06.2016 requiring the Petitioner to pay a sum of Rs.6,26,508/- towards the deficit stamp duty and towards registration charges is per se not correct in the eye of Law, because of the simple reason that the impugned Letter, dated 23.6.2016 of the Respondent was passed in an unilateral and self-serving fashion and that too, without providing an opportunity of explaining the Petitioner's position in the subject-matter in issue. In this regard, this Court is of the considered view that the impugned Letter, dated 23.06.2016 of the Respondent is in negation to the principles of natural justice. As such, this Court is constrained to interfere with the said letter, dated 23.06.2016 of the Respondent and sets aside the same. Consequently, the Writ Petition succeeds.

10.In fine, the Writ Petition is allowed and the impugned letter No.3 of 2016, dated 23.6.2016 passed by the Respondent/The Sub-Registrar, Kulathur @ Keeranur, Keeranur Post, Kulathur Taluk, Pudukkottai District is set aside, for the reasons assigned in this Writ Petition. Liberty is granted to the Respondent to pass a



fresh order in the subject-matter in issue, of course after providing necessary opportunity by means of issuance of show-cause notice to the Petitioner requiring him to explain as to why a sum of Rs.6,26,508/- towards the deficit stamp duty and for payment of deficit registration charges should not be collected from him. The said show-cause notice must be issued by the Respondent to the Petitioner by providing adequate opportunity of requiring the Petitioner to submit his explanation to the show-cause notice by providing at least ten days time for him to reply to the show-cause notice. It is open to the Petitioner to raise all factual and legal issues at the time of submission and the Respondent is to advert to the contentions raised by the Petitioner in the prospective impugned order to be passed afresh. Thereafter, the Respondent is to pass a reasoned speaking order on merits by outlining the process of reasoning in a qualitative and quantitative fashion in the manner known to Law and in accordance with Law. The said order is to be passed by the Respondent in a free, fair, unbiased and dispassionate manner and also uninfluenced and untrammelled by any of the observations made by this Court in this Writ Petition. The Petitioner is directed to lend his assistance and co-operation to the Respondent, so as to enable him to do the needful in the subject-matter in issue. Consequently, connected Miscellaneous Petition is closed.No costs.

Sd/-

Assistant Registrar(CS-II)

/TRUE COPY/

Sub Assistant Registrar

To
The Sub-Registrar,
Kulathur @ Keeranur,
Keeranur Post,
Kulathur Taluk,
Pudukkottai District.
+1cc to Mr.P.Ganapathi Subramanian, Advocate, SR NO:35936
+1cc to M/S.THE SPECIAL GOVERNMENT PLEADER, SR NO: 35826
vsn
JA-SKS-RR/20.7.2016/3p:4c

W.P (MD) No.12104 of 2016
and

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