BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.08.2016

CORAM

THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P.(MD) No.10408 of 2013
and
M.P.(MD)Nos.1 and 2 of 2013

Jeyaseelan .. Petitioner

vs.

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
120, Santhom Highroad,
Pattinampakkam, Chennai – 28.

2.The Special Deputy Collector (stamps),
Office of the Special Deputy Collector,
Collectorate, Tuticorin.

3.The Sub Registrar,
Office of the Sub Registrar,
Nazareth, Tiruchendur Taluk,
Tuticorin District. .. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 2nd respondent in Na.Ka.C.Pa.No.15/2011, dated 26.04.2013 received on 09.05.13 with regard to document No.1590 of 2010 of the petitioner and quash the same and consequently direct the 1st respondent to dispose of the appeal sent by way of registered post on 21.12.2011, on merits in accordance with law.

For Petitioner : Mr.S.Siva Thilakar

For Respondents : Mr.S.Kumar
Additional Government Pleader

O R D E R

Heard the Learned Counsel for the Petitioner and the Learned Additional Government Pleader for the Respondents.

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

3.According to the Petitioner, he had presented a sale deed, dated 20.09.2010, before the Third Respondent/Sub Registrar, Nazareth, Tiruchendur Taluk, Tuticorin District, to register the same after receiving necessary charges payable by him. As a matter of fact, the Third Respondent had directed him to pay a sum of Rs.70,668/- as deficit stamp duty for the document in question. Apart from that, the document was registered by the Third Respondent, but he had retained the same and referred the matter to the Second Respondent/Special Deputy Collector (stamps), Office of the Special Deputy Collector, Collectorate, Tuticorin, to assess the payment of correct stamp duty.

4.The stand of the Petitioner is that although the Second Respondent had claimed to have issued a notice to him, on 03.10.2011, to appear before him with relevant records to show that the value mentioned in the document is correct, the Second Respondent had not issued any notice to him. In fact, he had received a final order dated 25.10.2011 sent by means of registered post on 26.10.2011 etc.

5.At this stage, the Learned Counsel for the Petitioner projects an argument that the order of the Second Respondent, dated 25.10.2011, is against Law and also no opportunity was granted to the Petitioner to file any reply with relevant records. In this connection, the stand taken on behalf of the Petitioner is that four months prior to the registration of his document, a sale deed was executed in regard to the adjacent property situated on the western side of his property in Survey No.244,dated 11.05.2010 by one Jeykar and the document was also annexed. Likewise, in Survey No.225 also, a document was registered and these two documents would exhibit that the value of the property was fixed at Rs.15 per square meter. However, in respect of his property, the value was fixed at Rs.96 per square meter, which is unsustainable in Law.

6.The prime contention advanced on behalf of the Petitioner is that as against the order dated 22.10.2011, passed by the Second Respondent, the petitioner projected an appeal by means of registered post on 21.12.2011, before the First Respondent and the same was received by him. Also, an acknowledgement card was annexed therewith. Subsequently, he filed a petition under Right To Information Act, for which, there is no reply till date. Hence, the Petitioner has filed the present writ petition.

7.It comes to be known that till date, the appeal filed by the Petitioner before the First Respondent/Inspector General of Registration, Chennai 28, is pending as on date without any significant progress or disposal. In the meanwhile, the grievance of the Petitioner appears to be that the Second Respondent had issued a final notice on 26.04.2013, inter alia stating that in the deficit stamp duty proceedings under Section 47(A)(1) under the Registration Act and also under Revenue Recovery Act, the deficit Stamp duty of Rs.54,932/- determined by the Special Deputy Collector (Stamps), as ordered by him, must be paid and after 60 days, for the rest of the period, per month an interest at 2% was to be paid, failing which, under the Revenue Recovery Act, the movable and immovable property confiscation proceedings would be initiated and the payment of deficit Stamp duty would be collected.

8.One cannot brush aside the very vital fact that the appeal dated 21.12.2011, preferred by the Petitioner before the First Respondent/Inspector General of Registration, Chennai, is pending. The said appeal is to be disposed of by the First Respondent/competent authority in the manner known to Law and in accordance with Law. As far as the present case is concerned, the impugned final notice was issued in favour of the Petitioner on 26.04.2013.

9.When the appeal dated 21.12.2011, preferred by the Petitioner is pending before the First Respondent/Inspector General of Registration, Chennai as on date, without any disposal, or any significant progress, then this Court deems it fit and proper to direct the First Respondent/Inspector General of Registration, Chennai, to take up the Appeal dated 21.12.2011, filed by the Petitioner within a period of one week from the date of receipt of a copy of this order. Thereafter, the First Respondent is to pass a reasoned order on the Appeal in question within a period of four weeks (Ofcourse, after providing adequate opportunity to the Petitioner and other concerned by adhering to the Principles of Natural Justice by issuing notice to the Petitioner and others concerned, if any, and that too, if situation so warrants). The Petitioner is directed to lend his helping hand and assistance to the First Respondent so as to enable the latter to dispose of his Appeal within the time adumbrated by this Court, as stated supra. In case, the First Respondent is in requirement of any copy of the record/document from the possession of the Petitioner, then, it is incumbent on the part of the First Respondent/Inspector General of Registration, Chennai, to issue necessary memo/notice/memorandum to the Petitioner specifying the document, which he needs of from the Petitioner and soon after receipt of the said communication, the Petitioner is to comply with the requirement of the latter in true letter and spirit and also without prolonging the matter any further. It is needless for this Court to make a significant mentioned that soon after the receipt of the said document/record, the First Respondent/Inspector General of Registration, Chennai 28, shall pass orders in the subject matter in issue within the time determined as afore stated.

10.With the aforesaid observation(s) and direction(s), the writ petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To:

1.The Inspector General of Registration,
Office of the Inspector General of Registration,
120, Santhom Highroad,
Pattinampakkam, Chennai – 28.

2.The Special Deputy Collector (stamps),
Office of the Special Deputy Collector,
Collectorate, Tuticorin.

3.The Sub Registrar,
Office of the Sub Registrar,
Nazareth, Tiruchendur Taluk,
Tuticorin District.

+1 cc to M/S. S.Siva Thilakar, Advocate in SR.No. 48253

rj2
CSL/SS2/16.09.2016: 4P/5C

W.P.(MD) No.10408 of 2013
30.08.2016