IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2017

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.10252 of 2004

A.Subhash Chand .. Petitioner

Vs.

1. The District Revenue Officer (Stamps),
   5th Floor, Collector's Office,
   32, Rajaji Salai, Chennai - 600 001.

2. The Sub-Registrar,
   Kodambakkam, Chennai - 24. .. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first respondent in his proceedings Tha.Ka.No.334/03/A2 and quash his notice dated 09.01.2004 and direct the second respondent to release the sale deed executed in favour of the petitioner by the Muthialpet Benefit Fund Ltd., Chennai dated 24.11.2003 with Registration No.4330/2003.

For Petitioner : Mr.S.Balasubramanian
For Respondents : Mr.S.Diwakar
Special Government Pleader

ORDER

The petitioner has come forward with this Writ Petition praying to call for the records of the first respondent in his proceedings Tha.Ka.No.334/03/A2 and quash his notice dated 09.01.2004 and direct the second respondent to release the sale deed executed in favour of the petitioner by the Muthialpet Benefit Fund Ltd., Chennai dated 24.11.2003 with Registration No.4330/2003.

2. It is the case of the petitioner that the property bearing Door No.395, Old No.17, Poonamallee High Road, Chennai - 106, was the property of Thiru.M.Sivalingam and his wife Jamuna Rani. They mortgaged the said property with the Muthiyalpet Benefit Fund Ltd., Chennai and availed two loans for Rs.4,00,000/- and gave the property as a Security. As they defaulted in payment to the said Muthiyalpet Benefit Fund Ltd.,

the Authorities exercised the Power of Sale by public auction without the intervention of the Court under Section 69 of the Transfer of Property Act and appointed M/s.Kataraya and Co., as auctioners to conduct the Auction sale. The Auction was conducted on 27.09.2003 and the petitioner was the highest bidder in the public auction. The petitioner's highest bid is Rs.10,01,000/- was accepted and as the owners/mortgagors failed to execute the Sale Deed and the mortgagee, namely Muthiyalpet Benefit Fund Ltd., has executed the Sale Deed on 24.11.2003 and the same was registered by the 2nd respondent with Registration No.4330/2003. The 2nd respondent, without returning the document, has referred the same to the 1st respondent under Section 47-A of the Indian Stamp Act as if the property has been undervalued and he has issued a notice under Rule 4 of the Tamil Nadu Stamp (Prevention of Under-valuation of Instruments) Rules, 1968. The 1st respondent has demanded payment of defict stamp duty of Rs.2,09,292/-. The petitioner immediately replied to the 1st respondent stating that it will not be open for the 1st respondent to invoke Section 47-A of the Indian Stamp Act, as the property was purchased in the public auction held on 27.09.2003. Further, the petitioner brought to the notice of the 1st respondent that number of bidders participated in the Auction, and as the petitioner's bid was the highest, the same was accepted and the Sale Deed had been executed in favour of the petitioner and the consideration for the Sale Deed has been truly setforth in the document and that there is no under-valuation and as such, Section 47-A of the Stamp Act cannot be invoked. Though the 1st respondent has received the petitioner's reply, so far, the 1st respondent has not directed the 2nd respondent to return the registered Sale Deed.

3. According to the petitioner, it will not be open for the respondents to invoke Section 47-A of the Indian Stamp Act, as the property has been purchased by the petitioner in public auction. The value of the property purchased has been correctly stated in the Sale Deed and there is no under-valuation. Further, Section 47-A fo the Indian Stamp Act can be invoked only when there is under-valuation. As stated above, the petitioner has purchased the property in public auction and the same has been correctly indicated in the Sale Deed. So, it will not be open for the 2nd respondent to refer the matter to the 1st respondent under Section 47-A.

4. In support of his submissions, the learned counsel for the petitioner relied on the following decisions:

> (2009) 7 SCC 438 [V.N.Devadoss V.Chief Revenue Control Officer-cum-Inspector and others]
>
> "13. Sub-sections (1) and (3) of Section 47-A clearly reveal the intention of the legislature that there must be a reason to believe that the

market value of the property which is the subject-matter of the conveyance has not been truly set out in the instrument. It is not a routing procedure to be followed in respect of each and every document of conveyance presented for registration without any evidence to show lack of bona fides of the parties to the document by attempting fraudulently to undervalue the subject of conveyance with a view to evade payment of proper stamp duty and thereby cause loss to the revenue. Therefore, the basis for exercise of power under Section 47-A of the Act is wilful undervaluation of the subject of transfer with fraudulent intention to evade payment of proper stamp duty.

16. Market value is a changing concept. The Explanation to sub-rule(5) makes the position clear that (sic market) value would be such as would have fetched or would fetch if sold in the open market on the date of execution of the instrument of conveyance. Here, the property was offered for sale in the open market and bids were invited. That being so, there is no question of any intention to defraud the revenue or non-disclosure of the correct price. The factual scenario as indicated above goes to show that the properties were disposed of by the orders of BIFR and AAIFR and that too on the basis of value fixed by Assets Sales Committee. The view was expressed by the Assets Sales Committee which consisted of members such as representatives of IDBI, debenture-holders, Government of West Bengal and Special Director of BIFR. That being so, there is no possibility of any undervaluation and therefore, Section 47-A of the Act has no application. It is not correct as observed by the High Court that BIFR was only a mediator."

2017 (2) CTC 305 [Polyhose India Private Limited v. The Inspector General of Registration]

" 8. A similar view has been taken in the Judgments reported in Y.K.Mohan Rao and others v. Chief Revenue Controlling Authority, 2014(2) MLJ 678; P.Pandian v. The Inspector General of Registration, Chennai, 2016(2) LW 273, in The Inspector General of Registration, Chennai v. K.K.Thirumurugan, 2015(1) CTC 526(DB); and in In Re The Official Liquidator, High Court Madras v. Ramasubramanian, 2010 (2) LW 113, wherein, the applicability of Section 47-A(1) of the Indian

Stamps Act, 1899, in respect of the Sale Certificate came up for consideration and this Court following the Judgment of the Hon'ble Supreme Court of India reported in V.N.Devadoss v. Chief Revenue Control Officer-cum-Inspector and others, 2009 (7) SCC 438, held that Section 47-A of the said Act cannot be applicable to a Public Auction for sale of properties under the provisions of the SARFAESI Act.”

2015 (1) CTC 526 (DB) [The Inspector General of Registration v. K.K.Thirumurugan]

“ 10. In view of the contentions raised on behalf of the Appellants, as well as the Respondent, and on a perusal of the records available, and on considering the decisions cited supra, we are of the considered view that the Appellants have not shown sufficient cause of reason to interfere with the Order passed by the learned Single Judge, dated 06.01.2011. The Appellants have not been in a position to show that Section 47-A of the Indian Stamp Act, 1899, would be applicable to a Public Auction Sale of the properties which are brought for sale, as per the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and the Rules framed thereunder. It cannot be stated that the document presented for registration had been undervalued by those, who had presented the document for registration. Therefore, the question of re-assessing the market value of the property, which had been brought for sale by way of a Public Auction, under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, by invoking Section 47-A of the Indian Stamp Act, 1899, would not arise. Hence, we find it appropriate to dismiss the Writ Appeal. Accordingly, the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.”

1997 (6) ALT 801 [Sri Bharatia Pulverisers (P) Ltd. vs. Sub-Registrar of Assurance]

“12. ...... Counsel submitted that the value paid by the petitioner during the auction purchase for the land and building is to be taken as true and proper value of the property for the purpose of registration. In support of his contentions, learned counsel for the petitioner has referred to the decision of this Court in K.Sivaramaiah vs.Special Deputy Collector, Urban, Cuddapah [1989 (1) ALT 546] wherein this Court has held that the value paid at the time of public auction to a particular property has to be treated as correct value, for the purpose of registration. It is further contended that the petitioner has not subjected the plant and machinery for registration though he purchased the same in the auction for a sum of Rs.20.00 lakhs and as such the first respondent cannot insist payment of additional stamp duty of Rs.2.30 lakhs for the value of the plant and machinery purchased by him for Rs.20 lakhs.

17. This Court in the decision referred to above (1 supra), while examining the provisions under Section 47-A of the Act, with regard to the property sold in public auction, held that the true value of the property for the purpose of registration shall be that of the price paid by the party in the public auction. I am entirely in agreement with the above view taken by the learned Judge of this Court. The land and building were purchased by the petitioner in the public auction held on 26.03.1996 for a sum of Rs.5.00 lakhs. The petitioner has subjected only the land and building for registration before the first respondent by paying necessary stamp duty for the value of Rs.5.00 lakhs, which value he paid during the auction. Therefore, it cannot be said that the petitioner has undervalued the property as the property is purchased in public auction. The respondent has not placed any record before this Court to show that the petitioner has paid higher value during the auction purchase and has shown lesser value for the purpose of registration. In this view of the mater, I am inclined to hold that the value shown by the petitioner, basing on the auction purchase, for registration, is correctly indicated and thus, the first respondent cannot refer the matter to the Collector under Section 47-A of the Act only to satisfy his whims and fancies."

5. Per Contra, Mr.S.Diwakar, learned Special Government Pleader appearing for the respondents, submitted that the Sale Deed was executed as stated by the petitioner and since there was deficiency in Stamp Duty, proceedings under Section 47-A of the Indian Stamp Act had been initiated. It is further contended

by the learned Special Government Pleader that the deficiency in stamp duty in the instrument, was referred to the District Revenue Officer (Stamps) (DRO) under Section 47-A(1)(3) of the Indian Stamp Act for determination of market value and communication was sent to the petitioner in the prescribed form under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules. After careful consideration, deficiency in stamp duty was arrived at and the impugned order has been communicated to the petitioner to pay the deficit stamp duty, failing which interest would attract at 2% per month. He further submitted that, non-payment of deficit stamp duty as calculated by the 1st respondent in the impugned notice would result in loss of Revenue to the Government.

6. Heard both sides and perused the materials available on record. It is useful to refer Section 47-A(1) and 47-A(3) of the Indian Stamp Act, which reads as follows:

> "Section 47-A: Instruments of conveyance, etc., undervalued how to be dealt with: (1) If the registering officer appointed under the Registration Act, 1908 (Central Act XVI of 1908), while registering any instrument of conveyance, exchange, gift, release of benami right or settlement, has reason to believe that the market value of the property of which is the subject matter of conveyance, exchange, gift, release of benami right or settlement, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector for determination of the market value of such property and the property duty payable thereon.
>
> (2)....
>
> (3) The Collector may, suo motu or otherwise, within five years from the date of registration of any instrument of conveyance, exchange, gift, release of benami right or settlement, not already referred to him under sub-section (1), call for and examine the instrument for the purpose of satisfying himself as to the correctness of the market value of the property which is the subject matter of conveyance, exchange, gift, release of benami right or settlement, and the duty payable thereon and if after such examination, he has reason to believe that the market value of the property has not been truly set forth in the instrument, he may determine the market value of such property and the duty as aforesaid in accordance with the procedure provided for in sub-section (2). The difference, if any, in the amount of duty, shall be payable by the person liable to pay the duty:

Provided that nothing in this sub-section shall apply to any instrument registered before the date of commencement of the Indian Stamp (Tamil Nadu Amendment) Act, 1967."

Article 23 of the Schedule I to the Indian Stamp Act reads as follows:-:

Description of Instrument	Proper Stamp Duty
23. Conveyance (as defined by Section 2(10)), not being a transfer charged or exempted under No.62-- (a) of immovable property situated within the Chennai Metropolitan Planning Area and the Urban agglomeration of Mdurai, Coimbatore, Salem and Tiruchirapalli and the City of Tiruelveli.	Five rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of conveyance.
(b) of any other property	Five rupees for every Rs.100/- or part thereof of the market value of the property which is the subject matter of conveyance.

Explanation:--In the case of an instrument chargeable with the same duty as a conveyance under this Schedule, such instrument shall be charged with duty,--

(a) at the rate specified in clause (a) of this Article, if such instrument relates to immovable property situated within the Chennai Metropolitan Planning Area and the Urban agglomeration of Madurai, Coimbatore, Salem and Tiruchirappalli and the City of Tirunelveli; and

(b) at the rate specified in clause (b) of this Article, if such instrument relates to any other property.

Exemption:--Assignment of copyright under the Copyright Act, 1975 (Central Act 1 of 1957), Section 18."

7. A reading of the aforesaid provisions of the Act would make it clear that stamp duty is payable on the market value and not on the consideration.

8. It is an admitted case that the property in question has been purchased through public auction through advertisement in newspaper and the document had been registered. It is also not in dispute that the authorities have invoked Section 47-A of the Stamp Act to determine the market value.

9. The issue in this Writ Petition is as to whether the value disclosed in the sale deed executed on behalf of the President of India has to be considered or the market value/ guideline value will have to be taken into account for the purpose of arriving at the stamp duty based on the provisions of the Indian Stamp Act and whether the authorities have got powers under Section 47-A of the Act to determine the value.

10. It is not disputed that only in case of wilful under-valuation or improper disclosure of the value, in order to evade the proper stamp duty, Section 47-A can be invoked.

11. In the decision of a Division Bench of this Court reported in 2009 (1) CTC 305 (The Government of Tamil Nadu Vs. S.Jayalakshmi), this Court discussed in detail the powers of the Collector and the authorities under Section 47-A. The power under Section 47-A of the Stamp Act can be exercised by the Registering Officer when he has reason to believe that the market value of the property which is subject matter of conveyance, has not been truly set forth with a view to fraudulently evade payment of stamp duty and that mere lapse of time between the date of agreement and the execution of document, will not be the determining factor that the document is under-valued. It was further observed by the Division Bench as held by the learned single Judge in that decision that unless there is any substantial and material evidence and reasons to believe that the market value of the property conveyed has not been truly set forth in the instrument, with an object to commit a fraudulent evasion of stamp duty to cause loss of revenue, it cannot be presumed that the power conferred under Section 47-A of the Indian Stamp Act is a routine one in respect of each and every transaction.

12. The Apex Court and this Court have repeatedly held that the powers under Section 47-A is vested with the authority and their powers have not been curtailed. However, the authority concerned only will have to take into account as to whether there was any fraudulent evasion in payment of the stamp duty and whether there is any wilful under-valuation or suppression

or collusion between the parties. This Court makes it clear that if any sale of property is done and property is conveyed by means of public auction or through the Court order, Section 47-A of the Act has no application, unless it has been established by means of proper finding by the authorities under Section 47-A that there is a suppression of fact, or wilful non-disclosure of the market value or collusion even under the public auction. In this case, there is no material evidence to establish that the petitioner has played fraud or suppressed any material information.

13. Further, in the decision reported in 2011 (1) MWN (Civil) 487 (Ponmari Trade Pack Vs. The Sub-Registrar, Office of the Sub-Registrar), it has been held as follows in paragraphs 16 and 17:

> "16. .. .... having regard to the status of the vendor, namely, a Government of Tamil Nadu organisation, the claim of the respondents on untrue value declared has to be rejected outright. Section 47-A of the Act confers jurisdiction on the authority only when there is an untrue declaration of the value in the instrument. A mere difference between the guideline value and the value declared in the instrument does not automatically raise a presumption of untrue statement as to the valuation of the subject property to assume jurisdiction under Section 47-A of the Act. There are no merits at all in the demand made under Section 47-A of the Indian Stamp Act, as none of the orders of the Respondents satisfy the requirement of Section 47-A of the Act; hence, the same have to fail.
>
> 17. As regards the reliance placed on the decision of the Division Bench of this Court reported in The Government of Tamil Nadu Vs. S.Jayalakshmi, 2009 (1) CTC 305, I agree with the submission of the learned counsel appearing for the Appellant that the decision would squarely come to the aid of the appellant herein and in the absence of any material to substantiate that the value declared by the appellant was not true, the question of assumption of jurisdiction under Section 47-A of the Indian Stamp Act , does not arise. This Court pointed out that under Section 47-A of the Indian Stamp Act, the Collector is vested with the authority to assume jurisdiction as regards exemption for the purpose of satisfying himself as to the correctness of the market value of the property, which is the subject matter of the findings on the duty payable thereon. When the subject matter of jurisdiction of the sale is a property conveyed by the Government of Tamil Nadu

organisation, I fail to understand the reasoning of the respondents herein that the value disclosed in the instrument is against the guideline value. It may further be noted that the consistent view of this Court as well as that of the Apex Court is that the guideline value is merely a guide in the matter of ascertaining whether the valuation is truly disclosed in the instrument. Given the fact that the transaction is one at arms-length and given the peculiarity of the land allotted that the appellant had to incur further expenditure on development, I do not find any material to support the orders of the respondents to reject the value stated in the instrument of transfer."

14. Further, in a decision a Division Bench of this Court reported in 2001 (2) CTC 449 = 2001 (2) MLJ 458 (District Collector, Erode Dist. Erode Vs. M.Ponnusamy), it has been held that if the document is registered without any doubt as to the under-valuation of the document, or any reasonable belief as to the true value set forth in the instrument, and once it is registered, there is no further scope for holding the enquiry after registration regarding the value of the property for the purpose of reference. Therefore, necessarily before registering the document, the Registering Officer is entitled either to accept the valuation or refuse to accept the valuation. If he accepts the valuation also, he has to register the document; if he does not accept the valuation also, he shall register the document and then refer the same to the Collector. Therefore, once the document is registered, it pre-supposes that the Collector is satisfied about the valuation or it could be that he was not satisfied about the valuation, but followed it by a reference after registration. In that decision, the Division Bench further held that in that case, there is no decision on the part of the Registering Authority that he had reason to believe that there was an attempt on the part of the parties to under-value the subject matter of the transfer with a view to evade payment of proper stamp duty and the only reason apparently found from his memo that it is contrary to the guidelines cannot be the ground for referring the matter to the District Collector under Section 47-A(1) of the Act, especially after having registered the document without any demur and on his satisfying about the market value.

15. Moreover, in the decision of this Court reported in 2002 (2) CTC 329 (Sukumaran.R. Vs. State of Tamil Nadu), it is held that it is rather extraordinary for the Registering Authorities or for the concerned Special Deputy Collector (Stamp Duty) to assess the market value and insist for payment of stamp duty on the basis of market value that prevails on the date of presentation of the documents.

16. Furthermore, in the decision reported in 2002 (3) CTC 544 (Rajappa.B. Vs. The Special Deputy Collector (Stamps), this Court issued the following directions in paragraph 15 with regard to Section 47-A of the Indian Stamp Act:

> "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 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 Sections 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 the 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 proceedings 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.

17. It is also worthwhile to notice a decision of a Full Bench (Madurai Bench) of this Court reported in 2007 (5) CTC 737 (Karmegam.G. Vs. The Joint Sub-Registrar, IV, Madurai), wherein it has been held as follows:

> "6. A careful reading of the above provision (Section 47-A(1)(2)(3)) would show that if the Registering Officer has reason to believe that the market value of the property, which is the subject of conveyance, has not been truly set forth, he may, after registering such instrument, refer the same to the Collector for determination of proper market value of the property. The rationale behind the said

Section is to neutralise the effect of undervaluation of the property, with a view to avoid evading stamp duty.

7. Registration of document is a sine qua non for referring the matter to the Collector, if the Registering Officer believes that the property is undervalued. No jurisdiction has been conferred on the Registering Officer to refuse registration, even if the document is undervalued. Besides, there is no authority for him to call upon the person concerned to pay additional stamp duty. Collector is the prescribed authority to determine the market value, after affording a reasonable opportunity of hearing to the parties. The Registering Officer cannot make a roving enquiry to ascertain the correct market value of the property by examining the parties. However, it is expected that he has to give reasons for his conclusion for undervaluation, however short they may be. He can neither delay nor refuse registration of the instrument, merely because the document does not reflect the real market value of the property. In order to reach a conclusion, there is no bar for the Registering Officer to gather information from other sources, including official or public record. Valuation guidelines, prepared by the revenue officials periodically, are intended with an avowed object of assisting the Registering Officer to find out prima facie, whether the market value set out in the instrument has been set forth correctly."

18. It is also useful to refer a decision of a Division Bench of this Court reported in 1997 (2) CTC 617 = AIR 1997 Madras 296 = 1997 (2) LW 579 (S.P.Padmavathi Vs. State of Tamil Nadu and others), wherein it has been held that power under Section 47-A of the Act can only be exercised when the Registering Officer has reason to believe that the market value of the property, which is the subject of conveyance, has not been truly set forth, with a view to fraudulently evade payment of proper stamp duty and mere lapse of time between the date of agreement and the execution of the document will not be the determining factor that the document is undervalued and such circumstance by itself is not sufficient to invoke the power under Section 47-A of the Act, unless there is lack of bona-fides and fraudulent attempt on the part of the parties to the document to undervalue the subject of transfer with a view to evade payment of proper stamp duty.

19. It is also beneficial to refer a decision of this Court reported in 2008 (3) LW 286 = MANU/TN/1926/2008 (Tata Coffee Limited and K.Manohar Vs. State of Tamil Nadu, through Secretary

to Government, Commercial Taxes and Registration and others), wherein, it has been directed as follows:

> "25. In view of the above said discussion, the following principles are culminaed:
>
> ... ...
>
> (2) ... . the Registering Authority shall release the documents to the petitioners concerned with the endorsement in the form of affixing seal indicating that the reference under Section 47-A with respect to undervaluation and assessment of stamp duty payable is pending.
>
> ... ...
>
> (5) In addition to the above said affixture of seal ... . the concerned Registering Authority shall make corresponding entries in the Register maintained under the Registration Act, 1908, especially with reference to Sections 54 and 55, as to the pendency of Section 47-A proceedings, to be disclosed in the Encumbrance Certificates relating to the said properties.
>
> (6) On completion of the entire adjudication in respect of undervaluation by the competent authorities including the Appeal and revision if any, based on the ultimate decision, the authorities are entitled to recover the deficit stamp duty in accordance with the provisions of the Stamp Act.
>
> (7) Till such finality is reached and deficit stamp duty is paid in full as enshrined under Section 47-A(4) of the Act, there will be a charge on the properties which are the subject matter of such documents in respect of the amount of deficit stamp duty.
>
> (8) On payment of the deficit stamp duty by the party, the Registering Authority, on production of the original deed of transfer shall make appropriate entry regarding the factum of payment of full stamp duty and discharging property from the charge as per Section 47-A(4) of the Act and also make consequential entries in the encumbrance and indexes maintained under Sections 54 and 55 of the Indian Registration Act, 1908."

20. Further, in the decision reported in 2008 (4) CTC 486 (Nalina Veeraraghavan Vs. The Chennai Metropolitan Development Authority), this Court referred to a decision of the Supreme Court reported in 2008 (1) CTC 60 (SC) (State of Rajasthan and others Vs. Khandaka Jain Jewellers), in which the Apex Court held that the stamp duty shall be payable on the market value prevailing at the time registration of the sale deed.

21. Moreover, in yet another decision relied on by the learned counsel for the petitioner reported in 2014 SCC Online Mad 9452 (R.Jayanthi Vs. Special Deputy Collector), this Court observed that, as rightly contended by the learned counsel for the petitioners that Section 47-A could be pressed into service only when the Registering Officer has reason to believe that the market value of the property has not been truly set forth and it is so done with an intention to fraudulently evade payment of proper stamp duty.

22. Wherever necessary, the documents can be returned to the parties concerned with an endorsement that the properties cannot be alienated till the issue in question, more particularly, regarding Section 47-A of the Indian Stamp Act, is decided.

23. In view of the foregoing discussion and the law laid down in the decisions cited supra, including the decisions relied on by the learned counsel for the petitioner, the Writ Petition is allowed. The second respondent is directed to return the original sale deed in case it is with-held by the Sub-Registrar, within 45 days from the date on which this order copy is made ready. No costs.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

dsa

To

1. The District Revenue Officer (Stamps),
   5th Floor, Collector's Office,
   32, Rajaji Salai, Chennai - 600 001.

2. The Sub-Registrar,
   Kodambakkam, Chennai - 24.

3. The Special Government Pleader,
   High Court, Madras - 104.

+1cc to Government Pleader Sr.No.78600
+1cc to Mr.S.Balasubramanian, Advocate SR.No.77554

W.P.No.10252 of 2004

sm:7.12.2017