



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 16.11.2016
Delivered on : 15.02.2017

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CORAM

THE HON'BLE Mr. JUSTICE M.SATHYANARAYANAN
AND
THE HON'BLE Ms. JUSTICE V.M.VELUMANI

W.A.(MD)No.1099 of 2016
& C.M.P.(MD)Nos.6700 and 9050 of 2016

1.The District Registrar,
The District Registrar Office,
Tirunelveli District,
Tirunelveli.

2.The Special Deputy Collector (Stamps),
Tirunelveli District,
Tirunelveli.

3.The Sub-Registrar,
No.1, Joint Sub-Registrar Office,
Tirunelveli District,
Tirunelveli.

.. Appellants/Respondents

Vs.

1.R.Chidambara Raja Ratinam
2.Shanthi, W/o. Late R.Sankara Ayyalu
3.Ram Shankar, S/o.Late R.Sankara Ayyalu
4.Minor Ram Gopal,
S/o.Late R.Sankara Ayyalu
(Minor is Rep. by his mother and next
Guardian of second respondent /
second petitioner)

.. Respondents/Petitioners

Appeal filed under under Clause 15 of the Letters Patent,
against the order dated 29.04.2016, made in W.P.(MD)No.5956 of
2016.

Prayer in WP(MD). 5956/ 2016 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorarified Mandamus calling for the records relating to the
proceedings No.726/...../2016 dated 02.03.2016 of the 3rd
Respondents from taking any proceedings to recover any additional
stamp duty and registration fee.



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For Appellants

: Mr.A.K.Baskarapandian
Special Government Pleader

For Respondents

: Mr.M.Vallinayagam
Senior Counsel
for Mr.D.Nallathambi

JUDGMENT

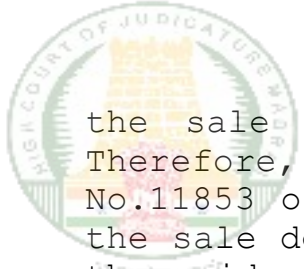
V.M.VELUMANI, J.

This Writ Appeal has been filed by the appellants challenging the order of the learned Single Judge, dated 29.04.2016, made in W.P.(MD)No.5956 of 2016.

2. The appellants are the respondents and the respondents are the petitioners in W.P.(MD)No.5956 of 2016. The respondents filed the writ petition challenging the order dated 02.03.2016, passed by the third appellant and further forbearing the appellants from taking any proceedings to recover any additional stamp duty and registration fee.

3. According to the respondents, the first respondent's mother - Venkittammal @ Sakku Bai entered into an agreement of sale with one Shanmugasundaram Pillai and Rajammal on 02.07.1987 in respect of the property in T.S.No.1605/2B and T.S.No.1606/2, measuring 1½ cents and 55 cents respectively. The possession of the said properties were handed over to the first respondent's mother on payment of entire sale consideration of Rs.26,131.25. Before executing the sale deed, the said Shanmugasundaram Pillai and Rajammal died. Their legal heirs entered into another agreement of sale in the month of October 1996 by confirming the earlier terms and agreed to execute the sale deed. The legal heirs executed the sale deed dated 30.01.1997 and presented along with respondents for registration before the third appellant. The third appellant did not register the sale deed, but kept it pending. In the meantime, the first respondent's mother - Venkittammal @ Sakku Bai died on 28.09.1997. Thereafter, at the request of the first respondent and his brother, the third appellant registered the sale deed as Document No.456/2000, but refused to release the sale deed.

4. The first respondent and his brother approached the authorities for releasing the document. While so, notices dated 05.01.2005 and 30.03.2005 were issued to the mother of the first respondent calling upon her to pay a sum of Rs.7,91,022/- as deficit stamp duty and Rs.65,920/- as registration fee and directed her to avail the benefit under G.O.(Ms)No.31, dated 30.04.2005 under "Samadhan Scheme". The respondents filed their objection as their mother died on 28.09.1997. They also gave a representation, dated 25.06.2013 to the third appellant to release



the sale deed. The third appellant did not pass any order. Therefore, the first respondent and his brother filed W.P.(MD) No.11853 of 2013 before this Court seeking a direction to release the sale deed, dated 30.01.1997, in Document No.456/2000. Pending the said writ petition, the first respondent's brother died. The respondents 2 to 4 were impleaded as petitioners in the writ petition. This Court vide order dated 18.01.2016, directed the third appellant to consider the representation of the first respondent, dated 25.06.2013 and pass orders on merits.

5. The third appellant vide impugned proceedings, dated 02.03.2016, informed the first respondent that the sale deed is with the second appellant for consideration with regard to the value of the property and deficit stamp duty and directed the first respondent to approach the second appellant. Against the said order, the respondents have filed W.P.(MD)No.5956 of 2016 for the relief stated supra.

6. According to the respondents, after registration, the authorities have no right to retain the document for any reason, in view of Section 47-A of the Indian Stamp Act. The appellants did not follow the procedures as contemplated under Indian Stamp Act as well as the Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules, 1968 and therefore, the proceedings with regard to undervaluation had lapsed. The appellants did not make any demand within three years from the date of registration as contemplated in Second Proviso to Section 33-A(1) of the Indian Stamp Act, 1899.

7. The appellants submitted that they have followed the procedure as per Indian Stamp Act as well as the Tamil Nadu Stamp (Prevention of undervaluation of Instruments) Rules, 1968 and an order has been passed in the year 2006 itself and the respondents have not filed any appeal. The learned Judge considering the fact that the mother of the first respondent died on 28.09.1997 itself and notices addressed to her were sent to old address and the respondents did not receive the said notices and following the judgments reported in **2003 (2) LW 160 [O.N.S.Hyder Ali Vs. The Sub-Registrar, District Registrar Cadre]**; **2008 (3) LW 286 [Tata Coffee Limited Vs. The State of Tamil Nadu and others]**; **2011 (4) LW 910 [K.N.Thangavel Vs. The Registrar, Registration Department, Erode Taluk and District and others]**; and **2012 (2) CTC 59 [T.Paneer Selvam Vs. The Inspector General of Registration]**, the learned Judge vide order dated 29.04.2016 allowed the writ petition.

8. Against the said order dated 29.04.2016, the present writ appeal is filed.

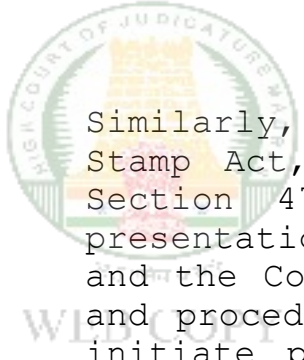


9. During the pendency of the writ appeal, applications for amendment of prayer and to receive the additional grounds in the writ petition have been filed and the same were allowed by this Court, by order dated 15.11.2016.

10. Mr.A.K.Baskarapandian, learned Special Government Pleader appearing for the appellants contended that the proceedings were initiated under Section 47-A of the Indian Stamp Act by the second appellant within a time frame fixed by the Act and Rules. The respondents did not avail the benefit under "Samadhan Scheme". In 2013, notice was sent to correct address, but the respondents did not file any objection. The learned Judge did not consider the proceedings initiated by the appellants 2 and 3 and the final order passed by the second appellant in the year 2006 itself. The impugned order is only a communication informing the respondents about the proceedings of the second appellant with regard to market value of the property as well as payment of deficit stamp duty and registration charges and prayed for allowing the writ appeal.

11. Mr.M.Vallinayagam, learned Senior Counsel appearing for the respondents submitted that no notice as contemplated under Section 47-A of the Indian Stamp Act was served on the respondents. The notices and orders were sent to dead person and even that the same were not sent to the correct address.

12. The Sub-Registrar, if he is prima facie satisfied that instrument presented for registration is undervalued, then, he must record reasons and refer the same to the Collector as per Section 47-A of the Indian Stamp Act. Even though no time limit is prescribed, it is well settled by judicial pronouncements that the Sub-Registrar must refer the same within a reasonable time. On receipt of reference, the Collector must issue notice to the parties in Form I of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, calling for objections granting 21 days time to file objections. On receipt of objections if any, the Collector must consider the objections and make enquiries and arrive at provisional value of property involved and issue notice to the parties calling objections, if any. After considering all the materials, the Collector has to pass final order fixing the value of the property and if there is any deficit of Stamp Duty and Registration Fees, call upon the parties to pay the amount. The Collector has to complete the same within three months from the date of receipt of reference. The notice and enquiry are mandatory and it is not an empty formality. Notice must be served on the parties. The final order passed by the Collector is nullity and non-est in law, if notices were not served on the parties as per procedure and if notices were sent to dead person. Further, the authorities can initiate proceedings to recover the stamp duty and registration fees within three years as per Second Proviso to Section 80-A of the Registration Act.

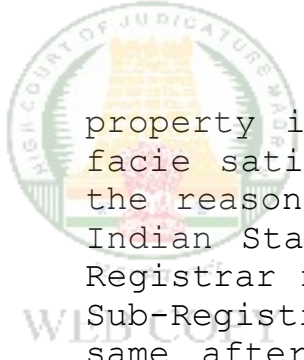


Similarly, as per Second Proviso to Section 33-A of the Indian Stamp Act, the Collector has to complete the proceedings under Section 47-A of the Indian Stamp Act within five years of presentation of documents. In the present case, the Sub-Registrar and the Collector have not complied with the mandatory conditions and procedure and after lapse of 16 years, the appellants cannot initiate proceedings for recovery of alleged deficit stamp duty and registration fees.

13. The learned Senior Counsel appearing for the respondents relied on the following judgments to substantiate the above submissions:

(i) **In 2008 (3) LW 286 [Tata Coffee Limited Vs. The State of Tamil Nadu and others]**, it has been held that notice can be served on the aggrieved party either in person or by registered post with acknowledgement due or by affixture. After expiry of 21 days, the Collector must make enquiries with regard to market value of the property in question, consider the objections of parties and must arrive at provisional value of the property. The notice contemplated in the Act is Mandatory and the notice must be given in Form-I giving 21 days time for aggrieved party to file his objections, if any. After arriving at provisional value, the Collector must make enquiries and issue notice to the aggrieved party in Form-II calling for objections. If any objection is filed, the Collector must consider the same and pass final order fixing the market value and call upon the party to pay the deficit stamp duty and registration charges if any. The Collector must complete the procedure within three months from the date of reference of Sub-Registrar. The proceedings to fix the market value and come to the conclusion that whether the property is undervalued or not, must be concluded and final order must be passed within five years from the date of registration. After arriving at, deficit stamp duty and registration charges, the authority must initiate proceedings within three years for recovery of deficit stamp duty and registration charges. If the above mandatory procedure is not followed, the order of the Collector is nullity and non-est in law. The proceedings under Section 47-A of the Indian Stamp Act with regard to undervaluation of the property is not completed within the time limit, the proceedings will lapse and the authorities have no power to initiate fresh proceedings.

(ii) **In 1998 (III) CTC 366 [M.Krishnan and 44 others Vs. The District Collector, Erode District and two others]**, 2002 (3) CTC 544 **[B.Rajappa and another Vs. The Special Deputy Collector (Stamps)]** and 2003 (4) LW 193 **[S.R.Sengotavelu, Servampatti Vs. The District Collector, Namakkal and 4 others]**, it has been held that when an instrument is presented for registration, the Sub-Registrar must prima facie come to a conclusion as to whether the



property is properly valued or not. If the Sub-Registrar prima facie satisfies that the property is undervalued, he must record the reasons and refer to the Collector under Section 47-A of the Indian Stamp Act. Even though no time limit is fixed, the Sub-Registrar must refer the matter within a reasonable time. When a Sub-Registrar registered the document, he has power to retain the same after registration. If the instrument is referred to the Collector under Section 47-A of the Indian Stamp Act, the Sub-Registrar can make an endorsement in the instrument that proceedings under Section 47-A of the Indian Stamp Act is pending and release the document to the party. This will safeguard the interest of revenue.

(iii) In 2005 (12) SCC 483 [**I.I.S. Employees' House Building Coop. Society Ltd., Vs. State of Karnataka and others**] and 2006 (3) MLJ 389 [**Savithiriammal Vs. State of Tamil Nadu, Rep. by Secretary to Government, Housing and Urban Development Department, Chennai - 9 and another**], it has been held that the land acquisition notification issued in the name of the dead person, even though the son already entered in the revenue records. It has been further held that valuable right to file objections deprived to the present owner, who is the aggrieved party, when the land acquisition notification issued. In the circumstances, the notification was held as nullity.

(iv) In 2012 (2) CTC 59 [**T.Paneer Selvam Vs. The Inspector General of Registration and two others**], it has been held only after registration and enquiry, deficit stamp duty and registration charges can be arrived at. The Collector must issue notice to aggrieved party to file his objections if any. The Second Proviso to Section 33-A of the Indian Stamp Act, 1899, confers valuable right to the parties. The authorities must initiate proceedings within three years from the date of registration. As per Section 33-A of the Indian Stamp Act, the said notice is mandatory. The authorities have power to recover the deficit stamp duty and registration charges as a land revenue. At the same time, the Sub-Registrar has no power to retain the instrument after registration.

(v) In 2010 (3) LW 472 [**P.Duraisamy Vs. The Licensing Authority, Periyakulam**], it has been held that suspension of Motor Vehicle License of Transport authority without non-application of mind and order issued in the printed format without assigning any reason, is set aside.

14. The learned Judge correctly applied the ratio in the judgments referred to above and allowed the writ petition and prayed for dismissal of the writ appeal.



15. We have carefully perused the typed set of papers filed by the appellants and the respondents and considered the arguments advanced by the learned counsel appearing for the parties.

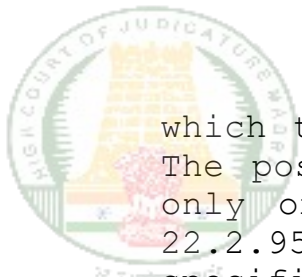
16. From the Additional Typed set of papers filed by the appellants, it is seen that the second appellant has initiated proceedings under Section 47-A of the Indian Stamp Act and passed final order. It is also seen that all the notices and orders were sent to Venkittammal @ Sakku Bai, who is the mother of the first respondent and his brother. The respondents have filed Legal Heirship Certificate, dated 19.02.2010, from which, it is seen that the said Venkittammal @ Sakku Bai died on 28.09.1997. It is pertinent to note that even though the sale deed was presented on 30.01.1997, the same was registered only in the year 2000 as Document No.456/2000.

17. From the records, it is seen that notices were sent to dead person that too to wrong address. No notice was sent by registered post or served on the person or affixed in the property. Admittedly, the notices were not served on the parties concerned. Similarly, there is nothing on record to show that the second appellant made any enquiries to arrive at the correct value of the property. There is no evidence to show that the final order passed by the second appellant was sent by Registered Post or served on parties.

18. As per the ratio laid down in the judgments reported in **2003 (4) LW 193 and 2008 (3) LW 286** [cited supra] and the other judgments referred to by the learned Senior Counsel appearing for the respondents, the final order dated 09.06.2016 passed by the second appellant is nullity and non-est in law.

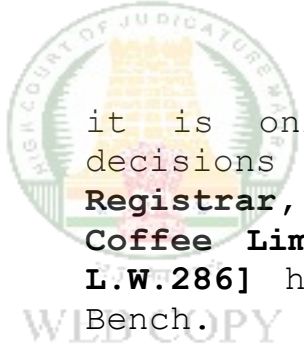
19. With regard to recovery of deficit stamp duty and registration charges, this Court considered this issue in the judgment reported in 2003 (2) LW 160 [cited supra], wherein after extracting Section 33-A of the Indian Stamp Act and Section 80-A of the Registration Act and Rule 3 of the Tamil Nadu Registration Rules, 1983 and considering the same, this Court held that the procedure under Section 47-A of the Indian Stamp Act and Section 80-A of the Registration Act must be completed within three years. Paragraph 5 of the said judgment reads as follows:

"5. A combined reading of the above provisions would make the position clear that in the event the respondent is of the opinion that there was a deficit in collection of either the stamp duty or the registration fee, an inquiry could be made within a period of three years. However, admittedly, the sale deed in this case was registered on 30.10.91. The impugned order does not bear any date. However, the learned counsel for petitioner produced the copy of the cover by



which the impugned order was despatched to the petitioner. The postal seal evidences the despatch of the said letter only on 21.2.95 which was received by the petitioner on 22.2.95. The despatch of the said letter, in the absence of specific date in the impugned order, should alone be taken into consideration for the purpose of calculation of the period of limitation for the inquiry to be initiated. That apart, the grievance of the petitioner is that there was no such enquiry at all initiated and only the impugned order directing the petitioner to pay the stamp duty and registration fee has been made. The said impugned order has been made beyond a period of three years. The respondent has no authority to initiate either the inquiry or make a demand in respect of the payment of stamp duty as well as registration fee beyond a period of three years of the registration. In that view of the matter, I find that the impugned order cannot be sustained in the eye of law. Moreover, there is no inquiry whatsoever conducted before such impugned order was passed. In the absence of inquiry, the order is also opposed to Section 33-A of the Indian Stamp Act, 1899 and Section 80-A of the Registration Act, 1908."

20. The Special Government Pleader has placed reliance upon the judgment dated 02.04.2014 made in W.A.No.422 of 2014 **[Dr.K.Prasad Kumaresan v. The Special Deputy Collector (Stamps), Salem and Others]** in support of his submission that time limit prescribed for deciding the question of undervaluation is only directory and not mandatory. The facts of the said case would disclose that the appellant therein got the sale deed executed in his favour and though it was presented for registration, was not returned on the ground of undervaluation and therefore, he filed a Writ of Mandamus for return of the sale deed. The learned Single Judge, in the said decision, has directed the second respondent therein to return the document with an endorsement as to the pendency of the proceedings under Section 47-A of the Indian Stamp Act, 1899, as amended by the Tamil Nadu Amendment Act, 2004, within a particular time and also passed further directions. The writ petitioner, aggrieved by the same, filed an appeal in W.A.No.422 of 2014 and the Division Bench of this Court, by placing reliance upon amendments to Rule 7(1) of the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968, has decided the question whether it is directory or mandatory and held that Rule 7(1), if read as a whole, then it would become very clear that the time limit has been introduced for the purpose of collecting the difference in the amount of stamp duty at the earliest and Rule 7(3) also states that the difference will have to be paid within a period of two months from the date of the order. The respondent therein placed under Sub Section (2) or Sub Section (3) to Section 47-A of the Indian Stamp Act, 1899 and therefore held that



it is only directory and not mandatory. However, earlier decisions on that aspect viz., **O.N.S.Hyder Ali v. The Sub Registrar, District Registrar Cadre [2003-2-L.W.160]** and **Tata Coffee Limited v. The State of Tamil Nadu and Others [2008-3-L.W.286]** have not been brought to the knowledge of the Division Bench.

21. In **O.N.S.Hyder Ali v. The Sub Registrar, District Registrar Cadre, Madras-1 [2003-2-L.W.160]**, the impugned notice, calling upon the petitioner therein to pay a further sum of Rs.45,823/- towards registration charges and stamp duty in respect of the sale deed which came to be registered on 04.10.1991, was put to challenge. The learned Single Judge of this Court, namely **Hon'ble Mr.Justice D.Murugesan** [as the Hon'ble Judge then was] has taken into consideration the scope of Sections 33-A and 80-A of the Registration Act, 1908 and Rule 2 of the Tamil Nadu Registration Rules, 1983, found that the order calling upon the petitioner therein to pay further sum of Rs.45,823/- towards registration charges has been made beyond the period of three years and the respondent, namely the Sub-Registrar, District Registrar Cadre, Sowcarpet, Chennai-1 has no authority to initiate any enquiry or make demand in respect of payment of the stamp duty as well as registration fee beyond the period of three years from the date of registration of the instrument and further found that no enquiry whatsoever was conducted before passing the said order and therefore, set aside the impugned notice.

22. In **Tata Coffee Limited v. The State of Tamil by the Secretary to Government, Commercial Taxes & Registration Department, Chennai-9 and others [2008 -3-L.W.286]**, the scope of Section 47-(A)(1), (2), (3), (4), (5) and Sections 2(12), 17, 31, 33-A of the Registration Act, 1908 as well as certain provisions of the Tamil Nadu (Prevention of under valuation of Instruments) Rules, 1968 came up for consideration and it has been held that the procedure for conducting enquiry by the Collector as per the above said Rules is made applicable in respect of the powers of the Collector to conduct suo motu enquiry under Section 47A(3) of the Indian Stamp Act, 1899 and such power is restricted to 5 years from the date of registration of the instrument. It has been further held that the Collector is bound to give 21 days notice while asking for representation in Form I and the Collector, after assessment of the provisional market value while sending Form II, can fix the date of his choice, calling for objection in respect of provisional market value and ultimately, the Collector has to pass final order determining the market value within three years from the date of first notice viz., notice in Form-I. The Enquiry to be conducted by the Collector under Section 47-A(2) or 48-A(3) makes it clear that the same has to be done after giving a reasonable opportunity of being heard and after holding enquiry, the pre-condition is that the notice informing about the enquiry



shall be served by any of the four modes stated above. It is also relevant to extract the following portions of the said decision:

"23.(e). Even though there is no time limit given to the registering authority to refer the documents to the Collector, certainly, for the authority performing statutory functions under Section 47-A(2), viz., the Collector, there are period of limitation prescribed at various stages, viz., while giving notice in Form No.I, he has to give 21 days time to the owner and thereafter after arriving at the provisional conclusion, the order has to be communicated to the executant asking him to file objections to the provisional conclusion by fixing a date for enquiry and thereafter, the final order has to be passed. It is made clear under Rule 7 that all the said proceedings commencing from Form No.I notice till the passing of final order shall be completed within a period of three months.

23(f). It is true that like the referring authority/registering authority for whom there is no period of limitation prescribed either in the Act or under the Rules for referring documents to the Collector, there is no period of limitation prescribed for the appellate authority for disposing of appeal, even though a period of limitation, as I have stated earlier can be inferred for the Collector to complete the enquiry under Rule 7. It is also seen under Section 47-A(3) that the Collector has suo motu power to conduct enquiry regarding valuation of the property which is the subject of the document and such power is restricted for a period of five years from the date of registration of such document. Therefore, the power of the Collector to conduct suo motu enquiry would be lapsed after five years.

23(g). Another point that can be raised is as to whether the referring authority, if not already referred the documents to the Collector, can be directed to refer the documents to the Collector now, especially in the absence of any time limit prescribed for the referring authority. But, such contention is also not tenable since the power that can be conferred on the Collector at this point of time after eight years would be more than the suo motu power of the Collector for which the limitation is five years. Therefore, looking at any angle, there is no question of fresh enquiry which can be directed to be done by the District Collector or there is no question of directing the petitioners to file any appeal within the time that may be given by this Court.



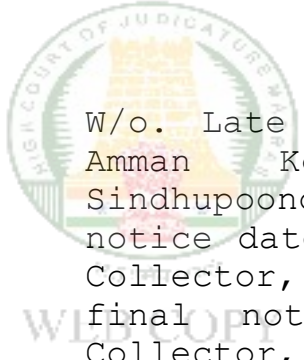
23(h). The necessary conclusion is that the entire proceedings in respect of determination of the market value in the documents which are subject matter of the above writ petitions should be deemed to be lapsed by the conduct of the respondents, which is not only callous but also opposed to all canons of justice which can never be approved. In such a situation, the contention of the learned Additional Advocate General that in these cases if really the petitioners have undervalued the properties for the purpose of registration, it will be a great loss to the State has no meaning in the sense that it is not due to the fault on the part of the petitioners, but on the part of the officials of the respondents for which the petitioners cannot be made to suffer any further.

23(i). In respect of the suggestion for fresh reference by the registering authority to the Collector in the absence of any time limit prescribed, even as per the Full Bench judgment reported in 2007 (5) CTC 737 (cited supra) (para-34) by applying the concept of conscience and reasonableness, I have no hesitation to come to the conclusion that on the factual situation, the entire conduct of the respondents in these writ petitions are most unreasonable and shocking the conscience of any normal humans sense. Certainly, the legal obligations imposed on the respondents have not been performed in a reasonable manner and this Court in such a situation cannot, with blind eyes, give another opportunity to the authorities to perform their functions for the second time which is not only unknown but would make mockery of the statutory provisions as enumerated above. Therefore, I am of the considered view that final orders stated to have been passed in these writ petitions by the District Collector as per Section 47-A(2) of the Act are only non-existent in the eye of law as there is no evidence to show that any enquiry was conducted by the District Collector. Further, there is no reason assigned by the registering authority to refer the matter to the District Collector.

(emphasis supplied)

The above cited decisions covers the issue involve in the said writ petition and however, it has not been brought to the knowledge of the Division Bench of this Court while W.A.No.422 of 2014 was under consideration.

23. It is also to be reiterated at this juncture that even in the sale deed, the present address of Venkittammal@ Sakku Bai,



W/o. Late Ramasamy Naidu was given as Door No.36, Uchi Makaali Amman Koil Lane, Thachanallur Road, Megalingapuram, Sindhupoondurai Village, Tirunelveli District and despite Form I notice dated 20.06.2000, copy of the notices sent by the District Collector, Kokkirakulam, Tirunelveli dated 09.02.2001, copy of the final notice dated 10.04.2001 sent by the Special Deputy Collector, Tirunelveli District, notice dated 04.06.2001 and the copy of final notices dated 15.06.2001 and 05.07.2001 were sent to Door No.12, Salai Street, Sindhupoondurai and so also the final notices dated 20.03.2002 and 26.06.2004 under Section 47(A)(1) (iii) of the Indian Stamp Act. Even the copy of the Special Deputy Collector's proceedings dated 31.07.2006 and the Urgent Notice of the Special Deputy Collector, Tirunelveli dated 12.10.2010 and 15.03.2012 were also sent to the very same address.

24. In the light of the decision rendered by this Court in **Tata Coffee Limited v. The State of Tamil Nadu [2008-3-L.W.286]** (cited supra), the impugned orders passed can only be treated as non-est in the eye of law for the reason that notices are sent to the wrong address despite the fact that sale deed sought to be registered is the present address and those notices were also sent to a dead person. Even otherwise, the final orders were passed on 31.07.2006, after a lapse of 5 years and that apart, the demand notices and orders of recovery have also come into being after 3 years.

25. Though the learned Special Government Pleader made a faint attempt by submitting that the matter may be remanded to the Special Deputy Collector to commence the proceedings afresh by issuing Form-I Notice to the correct address of the concerned person, this Court is of the view that in the light of passage of time from the date of presentation of the sale deed during January 1997, no purpose would be achieved and the respondents cannot be made to wait indefinitely for getting their registered sale deed in their favour. It is also to be noted at this juncture that unless the registered sale deed is returned, the concerned person may not be in a position to enjoy the property effectively and it is also in violation of Article 300A of the Constitution of India.

26. In the result, the Writ Appeal is dismissed, confirming the order dated 29.04.2016 made in W.P.(MD).No.5956 of 2016 and in the light of the amendment to the prayer ordered, pendency of the Writ Appeal, the final notice dated 09.06.2006 passed by the second appellant/second respondent in the writ petition as well as the consequential demand notice dated 31.07.2006 for recovery as well as precipitative action are also quashed. The respondents return the registered sale deed in Doc.No.456/2000 dated 30.01.1997 to the petitioner without insisting on additional stamp duty and registration fee, within a period of four weeks



from the date of receipt of a copy of this order. No costs. Interim stay already granted is vacated. Consequently connected miscellaneous petitions are dismissed.

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/True Copy/

Sd/-
Assistant Registrar(T&P)

Sub Assistant Registrar

To

- 1.The District Registrar,
The District Registrar Office,
Tirunelveli District,
Tirunelveli.
- 2.The Special Deputy Collector (Stamps),
Tirunelveli District, Tirunelveli.
- 3.The Sub-Registrar,
No.1, Joint Sub-Registrar Office,
Tirunelveli District, Tirunelveli.

+1cc to M/s.D.Nallathambi, Advocate sR.No.8567

jvm/smn2

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Judgment in
W.A. (MD) No.1099 of 2016
15.02.2017