BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P(MD) Nos.151 and 152 of 2016 and
W.M.P.(MD) Nos.111, 112, 2738 & 2739 of 2016

1. S.Saravanan ... Petitioner in W.P.(MD) No.151/2016
2. P.Palanikumar ... Petitioner in W.P.(MD) No.152/2016

-vs-

1. THE INSPECTOR GENERAL OF REGISTRATION,
   SANTHOME HIGH ROAD,
   CHENNAI 600 003.

2. THE SPECIAL DEPUTY COLLECTOR (STAMPS),
   DISTRICT COLLECTORATE OFFICE,
   VIRUDHUNAGAR DISTRICT.

3. THE SUB REGISTRAR,
   SUB-REGISTRAR OFFICE,
   SEITHUR, VIRUDHUNAGAR DISTRICT. ... Respondents

COMMON PRAYER: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the impugned order dated 27.10.2015 in Tha.Pa.No.S1/413/2015 & Tha.Pa.No.S1/401/2015 issued by the 2nd respondent and quash the same.

For Petitioners : M/s.K.Hemakarthikeyan
For Respondents : Mr.J.Gunaseelan Muthiah
Govt. Advocate

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O R D E R

These petitions have been filed, seeking to quash the impugned orders dated 27.10.2015 passed by the 2nd respondent in Tha.Pa.No.S1/413/2015 & Tha.Pa.No.S1/401/2015, by which, the petitioners were asked to remit the deficit stamp duty.

2. Since the issue involved in these writ petitions is one and the same, they are taken up together for final disposal by consent on either side. For the sake of brevity, the facts are being taken from W.P.(MD) No.151 of 2016, which read as follows:

i) The petitioner purchased a property measuring to an extent of 1044.281 sq.ft. and registered the same vide Doc.No.3816 of 2011 by remitting Rs.3,500/- towards stamp duty as per the guideline value. Thereafter, he was directed to pay an additional stamp duty of Rs.692/- totalling Rs.4,192/- and being satisfied with such remittance, the 3rd respondent released the document.

ii) However, to the shock and surprise, the 3rd respondent once again insisted the petitioner to pay an extra amount of Rs.9,050/- towards deficit stamp duty within 10 days, based on the audit objection. Aggrieved by the same, the petitioner, on earlier occasion, filed a writ petition in W.P.(MD) No.13119 of 2014, which came to be disposed of by this Court on 27.07.2015 with certain directions to the respondents. Regardless of the same, the 2nd respondent has passed the impugned order without hearing the petitioner and without providing an opportunity of hearing to the petitioner on the basis of his objection. Aggrieved by the overall act of the respondents, the petitioner is before this Court.

3. Though several points have been urged by the learned counsel for the petitioners to challenge the impugned orders, the main ground canvassed by the learned counsel for the petitioners is that the impugned orders have been passed without giving an opportunity of hearing to the petitioners, thereby there is a violation of principles of natural justice and therefore, on that sole ground, the impugned orders are liable to be set aside.

4. Heard the learned counsel on either side and perused the material documents available on record.

5. It is seen that there is a dispute with regard to payment of deficit stamp duty and when an additional sum is directed to be paid, the petitioners should be given an opportunity to defend their case and the principles of *audi alteram partem* should be applied, even if there are no positive words in the Statute, requiring that the party should be heard, as principles of natural justice are in-built in quasi judicial proceedings. In the present case on hand, even though the petitioners have duly submitted their objections against such demand, there is no reference / no whisper about the same in the impugned orders and it is also not the case of the respondents that they had given due opportunity to the petitioners before issuance of impugned orders. Though the respondents have stated that they have not received any objections so far from the petitioners in the form of writing, the petitioners have duly annexed the acknowledgment in the typeset of papers in proof of receipt of objections by the respondents.

6. Hence, finding force in the contention raised by the petitioners, these writ petitions are allowed and the impugned orders dated 27.10.2015 passed by the 2nd respondent are set aside. The matters are remitted to the 2nd respondent for fresh consideration and it is open to the 2nd respondent to pass orders afresh with regard to payment of deficit stamp duty, if so advised, after affording an opportunity of hearing to the petitioners and

also upon consideration of their objections, within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition are closed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To:

1. THE INSPECTOR GENERAL OF REGISTRATION,
   SANTHOME HIGH ROAD,
   CHENNAI 600 003.

2. THE SPECIAL DEPUTY COLLECTOR (STAMPS),
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   VIRUDHUNAGAR DISTRICT.

3. THE SUB REGISTRAR,
   SUB-REGISTRAR OFFICE,
   SEITHUR, VIRUDHUNAGAR DISTRICT.

+2ccs to The Special Government Pleader, SR.Nos.91422 and 91421

+One cc to Mr.P.Athimoolapandian, Advocate, SR.No.91587

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RL/6C/3P/JC/SAR1/22/12/2017

W.P(MD) Nos.151 and 152 of 2016

05/12/2017