



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.01.2017

CORAM :

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THE HONOURABLE MR.JUSTICE M.S.RAMESH

W.P (MD) No.18263 of 2013
and
M.P (MD) Nos.1 and 2 of 2013

Suba.Seetharaman

... Petitioner

Vs.

1.The District Registrar, O/o.District Registrar,
Collectorate, Kokkirakulam,
Tirunelveli 627 009.

2.The District Registrar - Administration,
O/o.District Registrar,
Collectorate, Kokkirakulam,
Tirunelveli 627 009.

3.The Special Deputy Collector, (Stamps),
District Collector's Office,
Kokkirakulam, Tirunelveli 627 009.

4.The Sub Registrar No.II,
Palayamkottai, Collectorate,
Kokkirakulam, Tirunelveli 627 009.

5.The Joint Sub Registrar No.II,
Melapalayam, Tirunelveli.

6.The Special Tahsildar, (Stamps),
Taluk Office, Palayamkottai,
Tirunelveli 627 002.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notice passed by the 2nd Respondent under the caption "Last notice" dated 23.08.2013 demanding to pay Rs.1,84,513/- quash the same and direct the respondents not to proceed with the Petitioner or the Petitioner's property for the deficit stamp duty on account of sale deed dated 04.10.1991 in document No.2087/1991 on the file of the No.II Sub Registrar office Palayamkottai Tirunelveli the 4th respondent herein.



For Petitioner : Mr.P.Senthurpandian

For Respondents: Mr.M.Alagadevan,
Special Government Pleader

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ORDER

Challenging the notice issued under Section 47(1) for recovery of the deficit stamp duty under the provisions of Revenue Recovery Act, 1864 the petitioner is before this Court.

2.The main grievance of the petitioner is that the respondents have not conducted a proper enquiry as contemplated under Section 33-A of the Indian Stamp Act, 1899. Section 33-A of the Indian Stamp Act reads as under:-

"33-A.Recovery of deficit stamp duty:(1) Notwithstanding anything contained in Section 33 or in any other provisions of this Act, if after the registration of any instrument under the Registration Act, 1908 (Central Act XVI of 1908), it is found that the proper stamp duty payable under this Act in respect of such instrument has not been paid or has been insufficiently paid, such duty or the deficit, as the case may be, on a certificate from the Registrar of the district under the Registration Act, 1908 (Central Act XVI of 1908) be recovered from the person liable to pay the duty, as an arrear of land revenue:

Provided that no such certificate shall be granted unless due inquiry is made and such person is given an opportunity of being heard:

Provided further that no such inquiry shall be commenced after the expiry of three years from the date of registration of the instrument."

3.From a reading of the above Section, it is clear that the certificate of the Registrar under sub-section (1), shall not be granted unless due opportunity is given to the petitioner to put forth his objections by conducting a proper enquiry. In the present case, there is nothing on record to show that the respondents have conducted an enquiry.

4.Under such circumstances, there shall be a direction to the first respondent to conduct a proper enquiry after considering the petitioner's objections and pass appropriate orders under the provisions of the Indian Stamp Act, 1899 within a period of three months from the date of receipt of a copy of this order.



5. With the above observation, the writ petition stands disposed of. No costs. Consequently, M.P(MD)Nos.1 and 2 of 2013 are closed.

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/True Copy/

Sd/-

Assistant Registrar (RTI)

Sub Assistant Registrar

sms

To

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Tirunelveli 627 009.
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Taluk Office, Palayamkottai,
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+1CC to Mr.P.Senthur pandian, Advocate Sr.No.3698

GJM/MR/VB/3.2.17-3p-8c

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