IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2018

C O R A M

THE HONOURABLE Mr.JUSTICE S.M.SUBRAMANIAM

WP.Nos.9317 & 9318 of 2014
and MP.Nos.1 & 1 of 2014

Selvarani

...Petitioner
in W.P.No.9317 of 2014

R.Sivanandam

...Petitioner
in W.P.No.9318 of 2014

Vs.

1.Inspector General of Registration,
123, Santhome High Road,
Chennai 600 028

2.District Revenue Officer,(Stamps),
O/o. Collector of Chennai,
Singaravelan Maaligai,
1st Line Beach Road,
Chennai 600 001

3.The Sub-Registrar, Mylapore,
123, Santhome High Road,
Chennai 600 028

... Respondents
in both WP's

COMMON PRAYERP

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari Mandamus calling for the records pertaining to the demand notice dated 26.03.2014 pertaining to document Nos.2806 & 2808/2001 issued by the 3rd respondent and quash the same as illegal, arbitrary and unlawful and direct the 1st respondent to decide the application filed on 04.03.2010 with regard to the proceedings in 17533/N5/4 on the file of the 1st respondent.

For Petitioner in all WP's	: Mr.G.Senthilkumar
For Respondents in all WP's	: Mr.M.Elumalai, Government Advocate

COMMON O R D E R

The demand notices dated 26.03.2014 pertaining to the document Nos.2808 & 2806 /2001 issued by the third respondent are challenged in this writ petition.

2. The power of attorney holders of the writ petitioners registered documents and objections were raised by the Sub Registrar, Mylapore in respect of payment of stamp duty and the matters were referred under Section 47(A) of the Stamp Act. Further, notices issued by the Sub Registrar, Mylapore in respect of document Nos.2808 & 2806 / 2001 dated 26.03.2014 state that the petitioners have to pay the deficit stamp duty of Rs.9,78,754/- failing which the matters will be referred under Section 47(A). Accordingly, the case of the writ petitioners were referred under Section 47(A) for ascertaining actual stamp duty to be paid in respect of the documents registered by the writ petitioners.

3. Instead of taking the matters before the competent authority, the writ petitioners have chosen to file the present writ petitions challenging the very notices issued by the Sub Registrar, Mylapore. In fact, the writ petitioners have to participate in the adjudicative process by submitting their explanations / objections in respect of the stamp duty claimed by the authority concerned.

4. Thus, the writ petitions are premature and it is left open to the writ petitioners to submit their explanations / objections in respect of the payment and thereafter, the authorities are bound to take a final decision in this matter.

5. No writ petition can be entertained against the notice in a routine manner. Judicial review in this regard is certainly limited. The writ petition can be entertained in the event when the notice issued by the authority is without jurisdiction and if there is an allegation of malafides is raised or if the same is in violation of the statutory rules in force. Even in the case of raising an allegation of malafides, the authority against whom the allegation is raised, is to be impleaded as respondent party in his personal capacity in the writ proceedings. In the absence of any one of these legal grounds, no writ proceedings can be entertained against the notice.

6. In the present case, the Sub Registrar, Mylapore issued notices directing the writ petitioners to pay the deficit stamp duty. Instead of adjudicating the matters in accordance with the procedures contemplated, the writ petitioners have chosen to file the present writ petitions.

7. In this view of the matter, the writ petitions are premature and, the writ petitioners are at liberty to submit their explanations / objections to the competent authority and in the event of participating in the process of adjudication, the authorities competent are at liberty to take a decision and pass appropriate orders on merits and in accordance with law.

8. The learned counsel for the writ petitioners submits that already explanations were submitted to the competent authority and appeals were also filed. If so, it is for the authorities to consider the same and take a decision in accordance with law.

9. Accordingly, the writ petitions are devoid of merits and stand dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

-s/d-
Deputy Registrar

True Copy

Sub-Assistant Registrar

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To

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SP(10/05/2018)