IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2018

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P.No.2215 of 2010
and
MP.Nos.1 & 2 of 2010

M.Venkatachalamurthy ... Petitioner

Vs.

1. The District Revenue officer (Stamps)
   Collectorate, Coimbatore - 641 018.

2. The Sub Registrar of Registration,
   Thondamuthur,
   Coimbatore - 641 109. ... Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records from the file of the 1st respondent made in Mu.Pa.No.95 to 98/C/96 A(3) dated 28.06.2005 pertaining to petitioner's Document No.1548 of 1995 registered with the 2nd respondent and quash the same.

For Petitioner : Mr.Su.Srinivasan

For Respondents : Mr.J.Ramesh, AGP

ORDER

This writ petition has been filed to call for the records pertaining to the order issued by the first respondent vide his proceedings Mu.Pa.No.95 to 98/C/96 A(3) dated 28.06.2005 in respect of the petitioner's document bearing No.1548 of 1995 registered with the second respondent and quash the same. By the impugned order, the first respondent directed the holder of the documents bearing Nos.298, 900, 1651 and 1548 of 1995 with respect of the property in S.No.408/1 of Theethipalayam Village, Coimbatore South Taluk and District, to pay the deficit stamp duty under Section 47A of the Indian Stamps Act.

2.On 30.09.2013, when the matter was taken up for consideration, this Court has passed the following order:

> "This writ petition is of the year 2010 and the matter in question is concerned with the Stamp Act. Notice was ordered by this Court on 08.02.2010, which was served on the respondents on 17.02.2010 and the proof of service was also filed.
>
> 2.While so, the respondents have not taken any serious note on the issue and come before this Court to answer the query raised by the petitioner and no counter is filed till date. It is unfortuate on the part of the respondents to keep the matter pending without adjudication and filing of counter.
>
> 3.Learned Additional Government Pleader requests two weeks time as a last opportunity to file counter and adjudicate the matter.
>
> 4.As a last chance, post the matter on 21.10.2013 for filing counter without fail."

3.Despite the same, there is no counter affidavit forth coming on the part of the respondents.

4.It is the specific case of the petitioner that he purchased a property measuring to an extent of 2 acres in S.F.No.410/1A in Theethipalayam Village and the same was registered with the second respondent vide Document No.1548 of 1995 on payment of appropriate court fee with respect to the market value of the same. However, the first respondent by the impugned order, directed the holder of the said document to pay the deficit stamp duty. According to the petitioner, he has not received any communication or notice with regard to initiation of Section 47A proceedings as well as the impugned order and he came to know about the same only through an application made under the Right to Information Act. It is the further case of the petitioner that the impugned order is relating to S.No.408/1 and not S.No.410/1A and is stated to be issued to one R.Ponnusamy and not to him and hence, the same is liable to be set aside.

5.The learned Additional Government Pleader appearing for the respondents fairly submitted that the impugned order was issued only to the said R.Ponnusamy and the property, which was registered under valuation, is relating to S.No.408/1 and hence, there is an inadvertent mistake occurred on the part of the authority concerned by including the document No.1548 of 1995 registered in favour of the petitioner. The learned Additional

Government Pleader has no objection in setting aside the order impugned herein with liberty to proceed further against the actual person, who is liable to pay the deficit stamp duty.

6.This Court, after considering the submissions made by the learned counsel on either side and upon perusal of the documents enclosed in the typed set of papers, particularly, the order impugned herein, is of the view that the order dated 28.06.2005 passed by the first respondent cannot be allowed to sustain and the same is liable to be set aside.

7.Accordingly, the order impugned herein is set aside and the matter is remanded back to the first respondent for consideration afresh and proceeding further against the actual person, who is liable to pay the deficit stamp duty, after providing due opportunity of personal hearing to him.

8.The writ petition stands disposed of in the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Revenue officer (Stamps)
Collectorate, Coimbatore - 641 018.

2. The Sub Registrar of Registration,
Thondamuthur, Coimbatore - 641 109.

+1cc to Mr.Su.Srinivasan, Advocate Sr.50302
+1cc to the Government Pleader Sr.50783

mp[co]
srg 30/10/2018