IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	06/07/2018
Delivered on	12/07/2018

CORAM:

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

W.P.No.23650 of 2013

M.Saraswathi .. Petitioner

Vs.

1. The Sub-Registrar,
   Sub-Registrar Office,
   Singanallur, Coimbatore District.

2. The Chief Controlling Revenue Authority cum
   the Inspector General of Registration,
   No.120, Santhome High Road,
   Chennai - 600 028. .. Respondents

PRAYER:
Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records of the first respondent herein pertaining to his letter dated 13.01.2012 and quash the same and further direct the first respondent herein to return the petitioner's original registered document No.7605/2007 in respect of the land in S.F.Nos.393/2, 394, 395 & 396 of Singanallur Village, Coimbatore District.

For Petitioner : Mr.P.M.Duraisamy
For Respondents : Mr.P.H.Arvindh Pandian
Additional Advocate General

Assisted by Mr.B.Anand
Government Advocate

O R D E R

Heard Mr.P.M.Duraisamy, learned counsel for the petitioner; Mr.P.H.Arvindh Pandian, learned Additional Advocate General, assisted by Mr.B.Anand, learned Government Advocate for the respondents and perused the materials available on record.

2. This Writ Petition has been filed to quash the demand of Rs.4,47,638/- towards deficit stamp duty, interest, registration

fee and for direction to return the original registration document No.7605 of 2007.

3. The case of the petitioner is that she purchased 25 cents in various Survey Numbers in Singanallur Village Coimbatore District, through a registered sale deed document No.7605 of 2007. The property was valued at Rs.7,50,000/- and she paid stamp duty of Rs.60,020/-. The document was referred under Section 47 A(1) of Indian Stamp Act and the District Revenue Officer (Stamps) fixed the value of the property at Rs.775/- per sq.ft. Aggrieved over the order, the petitioner preferred an appeal to the second respondent, which was disposed on 26.02.2011, by confirming the order of the District Revenue Officer (Stamps).

4. According to the petitioner, on 04.01.2012 she received a notice from the first respondent to pay deficit stamp duty and registration fee under Samathana Scheme and she paid entire amount on the very next day. Hence, the impugned notice is illegal and arbitrary.

5. The first respondent filed a counter stating that under G.O.Ms.No.132, Commercial Taxes and Registration Department, dated 31.01.2011, the Government has extended the Samathana Scheme, whereby any value of the document, which has been pending adjudication before the original or Appellate Authority. Since, the appeal of the petitioner was disposed of on 26.02.2011, she is not entitled for the benefits under the Scheme. It is further stated that the appeal order was sent to the petitioner on 25.04.2011 through the first respondent and by a regular post on 23.05.2011.

6. The petitioner has assailed the impugned notice on the ground that even after disposal of the appeal, there is no hard and fast rule to settle the claim under Samathana Scheme. However, during the course of hearing, Mr.P.M.Duraisamy, learned counsel for the petitioner by placing reliance on the decision of the Division Bench of this Court reported in CDJ 2007 MHC 583 (A.K.Abbas Bhai Vs. The Secretary Commercial Tax Department & Ors) urged that there is no proof for service of the order on the petitioner and hence, benefit under the G.O shall be extended to the petitioner.

7. Mr.P.H.Arvindh Pandian, The learned Additional Advocate General would contend that the petitioner has categorically admitted in the affidavit filed in support of the writ petition about the disposal of the appeal by the second respondent and the copy of the register produced along with the additional counter would reveal that the order of the second respondent was

communicated to the petitioner and hence, the Division Bench judgment has no relevance to the case on hand. It is further contended that since the G.O. is explicit that the scheme could be applied to the cases pending, the petitioner has no merit in this Writ Petition.

8. In the judgment relied on by the learned counsel for the petitioner, the Division Bench, in paragraph 5, has held as follows:-

> "5. We have given our anxious thought to the submissions made by the learned counsel for both sides. We are of the opinion that this writ petition is liable to be allowed. There is no proof of service of the order said to have been passed by the original authority. Unless sufficient proof is produced before this Court, this Court has to accept the contention of the petitioner that he has not received any order said to have been passed by the original authority. In that view of the matter, we are constrained to hold that the proceedings under the Act are pending and hence, the petitioner will be entitled to the benefits of the Act."

9. In the instant case, it is not in dispute that benefits under Samathana Scheme would be extended to those instruments, which are pending adjudication. The petitioner has categorically admitted in the affidavit that the appeal preferred before the second respondent was disposed of on 26.02.2011 and the notice under Samadhanam Scheme was issued only on 04.01.2012. Further perusal of the despatch register maintained in the Office of the first respondent establishes, the 2nd Appeal order was despatched to the petitioner. The learned counsel for the petitioner has produced the original order copy.

10. Therefore, I do not find force in the contention of the learned counsel for the petitioner that the order of the second respondent was not served on the petitioner and he is entitled for the benefit under the G.O. Since the petitioner has received the order of the second respondent, in my considered opinion, the decision referred above, has no relevance to the facts of this case.

11. In that view, I find no reason to quash the impugned notice. The Writ Petition fails and accordingly, the same is dismissed. It is needless to mention that if the petitioner remits the entire demand, the respondents shall release the

document forthwith. There is no order as to costs.

Sd/-
Deputy Registrar

//True Copy//

Sub Assistant Registrar

r n s

To

1. The Sub-Registrar,
   Sub-Registrar Office,
   Singanallur, Coimbatore District.

2. The Chief Controlling Revenue Authority cum
   the Inspector General of Registration,
   No.120, Santhome High Road,
   Chennai - 600 028.

+1cc to Mr.P.M.Duraisamy, Advocate, S.R.No.45605
+1cc to the Government Pleader, S.R.No.46145

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CS/23/07/18