BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.07.2018

CORAM:

THE HONOURABLE MR. JUSTICE K.RAVICHANDRABAABU
AND
THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

W.A.[MD].Nos.1464 and 1465 of 2015
and
M.P.(MD)Nos.2 & 3 of 2015

1.The Inspector General of Registration,
Office of the Inspector General of
Registration, Santhome High Road,
Santhome, Chennai – 600 028.

2.The Special Deputy Collector (Stamps)
Tirunelveli, Tirunelveli District.
.. Appellants/Respondents 1 & 2
in both the writ appeals

Vs.

PSN Educational & Charitable Trust,
Rep. by its Managing Trustee,
Dr.P.Suyambu .. Respondent/ writ petitioner
in both the writ appeals

COMMON PRAYER: Appeals are filed under Clause 15 of the Letter Patent Act, against the common order, dated .10.07.2014 made in W.P.(MD)Nos.2441 & 2442 of 2013 on the file of this Court.

Prayer in WP(MD).No.2441/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd Respondent herein to forthwith release the document bearing No. 2891 of 2005 on the file of Sub Registrar II, Tirunelveli in respect of property situate at Door No. 6A/4 comprised in T.S No. 1278/1, Block No. 17, Ward 11, Thatchanallur Road, Tirunelveli and pass such further or other orders.

Prayer in WP(MD).No.2442/ 2013 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other appropriate writ, order or direction in the nature of Writ of Mandamus directing the 2nd Respondent herein to forthwith release the document bearing No.2892 of 2005 on the file of Sub Registrar -II, Tirunelveli in respect of property situate at Door No.6A/4 comprised in T.S.No.1278/2B1, 1278/2B2, Block No.17, word 11, Thatchanallur Road, Tirunelveli.

For Appellant in both the writ appeals : Mr.M.Murugan
Government Advocate

For Respondent in both the writ appeals : Mr.AR.L.Sundaresan
Senior Counsel
for Mrs.AL.Gandhimathi

COMMON JUDGEMENT

[Judgement of the Court was delivered by K.RAVICHANDRABAABU, J]

These two writ appeals are directed against the final orders passed in W.P.(MD)Nos.2441 and 2442 of 2013, dated 10.07.2014. The appellants in both the appeals are the respondents 1 and 2 before the writ Court in both the writ petitions.

2.Those writ petitions were filed for a Mandamus directing the Special Deputy Tahsildar (Stamps), Tirunelveli, who is the second appellant herein to forthwith release the documents bearing Nos.2891/2005 and 2892/2005 respectively in respect of the property referred to in the said documents.

3.The grievance of the writ petitioner, who is one and the same in both the writ petitions, is that even though the deficit stamp duty was paid, the documents are not released by the second respondent. On the other hand, it was contended that the deficit stamp duty was paid by the writ petitioner only after a long lapse of time and therefore, the petitioner is liable to pay interest as contemplated under Section 47 A(4) of the Indian Stamp Act, 1899.

4.The Writ Court after considering the rival claims of the parties found that since the petitioner has paid the deficit stamp duty, there is no question of imposing penalty without specifically making an order to that effect. Accordingly, the writ court issued a direction for release of the subject matter documents.

5.The learned Special Government Pleader appearing for the appellants contended that as per Section 47 A(4) of the Indian Stamp Act, 1899, interest is liable to be paid, if the difference in the stamp duty is not paid within such period as prescribed.

6.Though the learned Senior Counsel Mr.AR.L.Sundaresan, appearing for the respondent/writ petitioner sought to contend that the differential stamp duty was paid on demand, he is however fair enough to admit the position that the assessment order was issued on the writ petitioner though on 13.01.2006, the differential stamp duty was paid only on 17.12.2012. He further admitted that in between those period, no proceedings was initiated or pending questioning the assessment order.

7.When such being the position, as rightly contended by the learned Special Government Pleader, the writ petitioner is liable to pay 1% of the interest for the entire period of default, viz., the period commencing from 13.01.2006, the date on which, the assessment order was issued till 17.12.2012, the date on which deficit stamp duty was paid, as required under Section 47 A(4) of the said Act.

8.Accordingly, these writ appeals are allowed in part, by modifying the order of the writ Court as follows:-

(a)The second appellant shall issue a communication to the writ petitioner indicating the actual quantum of interest payable for the default period at the rate of 1% p.m., within a period of two weeks from the date of receipt of a copy of this order;

(b)On receipt of such communication, the writ petitioner shall pay the said sum towards the interest within a period of four weeks thereafter; and

(c)On payment of such interest, the second appellant as well as the Sub-Registrar-II, Tirunelveli shall release the documents bearing Nos.2891/2005 and 2892/2005, to the petitioner, within seven days thereafter.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar(CS-II)

To

1.The Inspector General of Registration,
Office of the Inspector General of
Registration, Santhome High Road,
Santhome, Chennai - 600 028.

2.The Special Deputy Collector (Stamps)
Tirunelveli, Tirunelveli District.

3.The Sub Registrar - II,
Tirunelveli.

+2cc to Mrs.AL.Gandhimathi, Advocate, SR.No.74032 &74033.
+1cc to Special Government Pleader, SR.No.74152.

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19.07.2018

rj2
RAM/RP/SAR 2/25.07.2018/3P/7C