

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 13.02.2018****CORAM:****THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN****W.P. (MD)No.9760 of 2014**

Aysha Foundation Private Limited,
Represented by its Director,
Rafeeka Ammal

... Petitioner

-Vs-

1. The Special Deputy Collector,
Stamp duty,
Thanjavur.

2. The Joint Sub Registrar No.2,
Pattukkottai,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, calling for the records of the second respondent in E.C.No.1306/2014 dated 02.06.2014 and quash the entry made therein and in connected Government records by the second respondent as though loss of deficit stamp duty amounting to Rs.9,28,440/- and registration fees of Rs.1,16,055/- had occasioned in respect of Doc.No.7 of 2009.

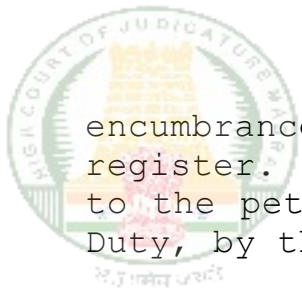
For Petitioner : Mr.M.R.S.Prabhu

For Respondents : Mr.M.Rajarajan,
Government Advocate.

ORDER

This writ petition has been filed, challenging the order dated 02.06.2014 passed by the second respondent making encumbrance in the register on the ground that the document registered by the petitioner has been referred under Sections 47 (A)3 of the Indian Stamp Act for deficiencies of stamp duty to the tune of Rs.11,67,055/-.

2. According to the petitioner, the document submitted by the petitioner has been registered and also returned to the petitioner. Thereafter, when he filed an application for



encumbrance certificate, the above encumbrance made in the register. The said encumbrance has been made without any notice to the petitioner and without determining actual deficit of Stamp Duty, by the competent authority under Section 47(A)3 of the Act.

3. The second respondent has filed counter affidavit stating that after registering the document, it is found that the property has been under valued, hence, the matter is referred to the first respondent / Special Deputy Collector, Stamps, Thanjavur on 13.05.2013 under Section 47(A)3 of the Indian Stamp Act. In the above circumstances, the present encumbrance has been made.

4. Considering the fact that the reference is pending with the first respondent / Special Deputy Collector, Stamp duty, Thanjavur, from the year 2013, it is suffice to direct the first respondent to pass orders on the reference made under Section 47 (A)3 of the said Act, after issuing notice to the petitioner and conducting enquiry, on merits and in accordance with law, within a period of two months from the date of receipt of a copy of this order.

5. With the above direction, this Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar(AD-I)

/True Copy/

Sub Assistant Registrar

To

1. The Special Deputy Collector,
Stamp duty,
Thanjavur.

2. The Joint Sub Registrar No.2,
Pattukkottai,
Thanjavur District.

+ 1 cc TO Mr.M.R.S.Prabhu , Advocate in SR No. 48583
+ 1 cc TO The Special Government Pleader in SR No. 48623

Myr

AE/SV MMS/SAR2/02.03.2018/2P/5C

W.P(MD)No.9760 of 2014
13.02.2018