IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.1222 of 2019
and W.M.P.No.1369 of 2019

S.Ethiraj Chettiar .. Petitioner

/versus/

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer,
Arni,
Tiruvannamalai District.

3.Samundeeswari

(R3 impleaded vide order dated 08.04.2019
made in WMP.No.9164/19 in WP.No.1222/19) .. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for records in proceedings No.A5/980/2018 dated 27.11.2018 on the file of 2nd respondent and quash the same.

For petitioner : Mr.G.Rajan

For Respondents : Mr.N.Inbanathan
Addl.Govt.Pleader for R1 & R2

Mrs.G.Samundeeswari
Party-in-person for R3

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents including the 3rd respondent, who appeared in person.

2. It is the case the partition suit between the parties is pending before the Sub Court, Arni, Tiruvannamalai District in O.S.No.57 of 2005. The petitioner herein has marked a Koor Chit (an unregistered agreement between the parties regarding the partition), during the trial the said

documents which was marked as Ex.B1 in the suit was impounded for necessary stamp duty. This point was agitated by the petitioner herein before this Court in C.R.P.NPD.No.1263 of 2016 and this Court has directed the parties to cure the defects in the said documents which has caused impediment for admissibility of it in evidence. Accordingly, the impounded documents has been referred to the Government for fixing deficit stamp duty and penalty.

3. In the said process, the Revenue Divisional Officer has assessed the deficit stamp duty and penalty as Rs.32,77,706/- and the same is now challenged in this writ petition on the ground that it is the District Collector under the Stamp Act, who is the competent authority to fix the stamp duty and penalty and not the Revenue Divisional Officer.

4. In the counter, the 2nd respondent has admitted that due to inadvertence without verifying the Stamp Manual Act-1899, the 2nd respondent has passed the order of fixing stamp duty and penalty vide order dated 27.11.2018 and concedes that the District Collector is the only competent authority for fixing the stamp duty and penalty.

5. In the light of the above submission, the writ petition is partly allowed. The order of the 2nd respondent dated 27.11.2018 is quashed. The 2nd respondent is directed to forward all the papers to the 1st respondent for fresh adjudication of stamp duty and penalty in respect of koor chit marked as Ex.B1 and pass appropriate orders in accordance with law, without being influenced by the observation made by the 2nd respondent in his order, which is now been quashed.

6. The 1st respondent is directed to pass orders within a period of four weeks after receipt of the papers from the 2nd respondent. The parties concerned shall be permitted to make their respective representations regarding assessment of stamp duty and penalty before the 1st respondent.

7. With the above observation, this writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar

//True Copy//
Sub Assistant Registrar

rpl

To

1.The District Collector,
Tiruvannamalai District,
Tiruvannamalai.

2.The Revenue Divisional Officer,
Arni,
Tiruvannamalai District.

+2cc to Mrs.G.Samundeeswari, Advocate SR.94530
+1cc to Mr.G.Rajan, Advocate SR.94478
+1cc to the Government Pleader SR.95604

W.P.No.1222 of 2019
and W.M.P.No.1369 of 2019

PP(CO)
CB(25/11/2019)