IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 20.02.2019

CORAM :
THE HONOURABLE MR. JUSTICE M.S. RAMESH

WP. No.16657 of 2004
and
W.P.M.P.No.19704 of 2004

M.Indirakumari ..Petitioner

Vs

The District Registrar,
Villupuram ..Respondent

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorari, calling for the records dated 01.02.2000 passed by the respondent herein and quash the same.

For Petitioner : Mr.T.Dhanyakumar

For Respondent : Mr.P.P.Purushothaman, G.A.

ORDER

The order impugned in the present Writ Petition is the demand for payment of deficit stamp duty for the building constructed in the property in Resurvey No.57/1B in Manalurpettai Village, Tirukovilur Taluk, which is the subject matter of the sale deed dated 06.06.1997 registered as Document No.534 of 1997.

2. The learned Government Advocate appearing for the respondent submitted that the respondent had conducted a spot visit on 29.07.1999 and noticed the existence of a building in the property and therefore, he demanded deficit stamp duty.

3. It is seen that the sale deed was registered on 06.06.1997 and after a period of more than two years, the respondent had conducted spot inspection, wherein, they claimed to have identified the building standing in the said property.

4. As rightly pointed out by the learned counsel for the petitioner, after the sale deed was registered on 06.06.1997, the petitioner had applied for building plan approval, which was

granted on 24.06.1997 by the Executive Officer of the concerned Panchayat. Thereafter, by way of a mortgage deed dated 02.07.1997, the petitioner had raised funds and constructed the building in the said land and the building was also assessed to property tax, which is evident from the property tax receipt dated 04.12.1998. After all these developments in the land, respondent had conducted spot inspection on 29.07.1999 and found the existence of a building. Apparently, construction could have been completed within these 2 years between the date of the sale and the alleged inspection. Therefore, it is quite probable that the building could not have been there in the subject land on the date of the presentation of the sale deed.

5. Even otherwise, from the fact that the respondents had conducted spot inspection after two years and found the existence of the building, cannot be deemed to have been done within a reasonable time. Two years time is quite sufficient for the petitioner to put up a construction in the property.

6. On a perusal of the documents produced before this Court, it is evident that the property, after registration, had been subjected to mortgage for the purpose of raising funds, whereby, construction had been put up and the building has also been assessed to property tax. In view of these developments, the demand made by the respondent herein for the payment of the deficit stamp duty may not be permissible.

7. In the light of the foregoing reasons, the order dated 01.02.2000 passed by the respondent is set aside. Accordingly, the Writ Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

pvs

To

The District Registrar,
Villupuram

+1cc to Mr.T.Dhanyakumar, Advocate, S.R.No.16271

WP. No.16657 of 2004

VSN II(CO)

RRS(15/04/2019)