

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2019

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

W.P.Nos.23805 & 23806 of 2009
and
M.P.No.2 of 2009

E.Gomathy

... Petitioner in both W.Ps.

Vs.

1.The Inspector General
of Registration
Mylapore
Chennai 600 004

2.The Joint sub Registrar
No.1, South Chennai
Office of the Joint
Sub Registrar
Saidapet
Chennai 600 015

... Respondents in both W.Ps.

Common Prayer: Writ Petitions filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the entire records concerned with the notice dated 22.10.2009 pursuant to Document Nos.4244 and 4243 of 1997 respectively issued by the Second Respondent and quash the proceedings of the same, consequently direct the respondents to return the document Nos.4244 and 4243 of 1997 respectively registered on 20.10.2007 forthwith.

For Petitioner : Mr.B.Mahendra Naidu

For Respondents : Mr.P.P.Purushothaman
Government Advocate

COMMON ORDER

The petitioner has filed these writ petitions seeking issuance of Certiorarified Mandamus, to call for the entire records concerned with the notice dated 22.10.2009 pursuant to Document Nos.4243 and 4244 of 1997 issued by the Second Respondent and quash the proceedings of the same, consequently

direct the respondents to return the document Nos.4243 and 4244 of 1997 registered on 20.10.2007 forthwith.

2.Heard Mr.B.Mahendra Naidu, learned counsel appearing for the petitioner and Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents.

3.These writ petitions have been filed challenging the demand notice issued by the 2nd respondent for recovery of the deficit stamp duty in respect of the documents registered in favour of the petitioner. It is the case of the petitioner that without passing any final order under Section 47A of the Indian Stamp Act, the demand notice has been issued by the respondents. According to the petitioner, final order is said to have been passed in the proceedings under Section 47A of the Indian Stamp Act, was not served on them.

4.The learned Government Advocate would submit that final order has already been passed and a copy has also been served on the petitioner. Further, the learned Government Advocate would state that they could not produce any proof to show that the copy of the final order has been served on the petitioner.

5.In similar circumstances, the Division Bench of this Court in W.P.(MD) No.11908 of 2012 dismissed the writ petition and a direction was issued to the respondents to furnish a copy of the proceedings under Section 47A of the Indian Stamp Act to the petitioners. The petitioners therein were also directed to prefer an appeal within a period of four weeks. The relevant portion of the order passed in the batch cases of W.A.(MD) Nos.1176 to 1179 of 2017 etc., etc., reads as follows:

"W.P.(Md) No.11908 of 2012, challenging only the demand notice, stands dismissed. However, the respondents are directed to serve copy of the proceedings under Section 47-A of the Indian Stamp Act within four weeks from the date of receipt of a copy of this order to the petitioner. On receipt of the same, liberty is given to the petitioner to work out his remedy in the manner known to law. W.P.(MD) No.13413 of 2016 stands dismissed, as there is no question of releasing the document after determination under Section 47-A of the Indian Stamp Act. However, liberty is given to challenge it by way of appeal within four weeks from the date of receipt of a copy of this order in which case, the question of limitation will not arise."

6.In the light of the above decision of the Division Bench of this Court, these writ petitions stand dismissed.

7.The respondents are hereby directed to serve copy of the proceedings under Section 47A of the Indian Stamp Act within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, liberty is given to the petitioner to work out the remedy by way of filing an appeal within a period of four weeks, in which case, a question of limitation does not arise. The Appellate Authority shall dispose of the appeal on merits and in accordance with law. No costs. Consequently, connected miscellaneous petition if any stands closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector General
of Registration
Mylapore
Chennai 600 004

2.The Joint sub Registrar
No.1, South Chennai
Office of the Joint
Sub Registrar
Saidapet
Chennai 600 015

+lcc to Mr.B.Mahendra Naidu, Advocate sr.70647
+lcc to Government Pleader sr.70224

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cnr(co)
nr 03/10/2019