IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 06.11.2019
CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.No.9262 of 2009
And
M.P.No.1 of 2009

K.Pugazhendhi ... Petitioner

Vs.

1.The Special Deputy Collector (Stamps)
Special Deputy Collector Office,
Trichirappalli.

2.Sub Registrar,
Jayangondam,
Udayarpalayam Taluk,
Ariyalur District. ... Respondents

Prayer:
Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings Na.Ka.No.68/09 dated 13.03.2009 and quash the same and direct the second respondent to hand over the Document No.1258/2007 dated 25.09.2007 to the petitioner herein.

For Petitioner : Mr.R.Venkatesulu
for M/s.Usha Ramman
For Respondents : Mr.T.M.Pappiah
Special Government Pleader

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent in his proceedings Na.Ka.No.68/09 dated 13.03.2009 and to quash the same and to direct the second respondent to hand over the Document No.1258/2007 dated 25.09.2007 to the petitioner.

2.Heard the arguments advanced on either side.

3.The case of the petitioner is that the petitioner purchased patta land admeasuring an extent of 0.48 cents in

S.F.No.179/a-B and an extent of 0.20 cents in S.F.No.179/2 in Kallathoor Village, from one Saminathan on 25.09.2007 for a valuable consideration of Rs.68,000/- The sale deed was presented before the second respondent for registration on 25.09.2007. The second respondent registered the sale deed in Document No.1258 of 2007 on 25.09.2007, however, sent the document to the first respondent since the second respondent felt that the document is undervalued under Section 47-A(1)(3) of the Indian Stamp Act.

4.It is the further case of the petitioner that the first respondent without following any procedure, fixed the land value and the second respondent issued notice dated 13.03.2009 to the petitioner to pay deficit stamp duty of an amount of Rs.1,03,446/-. Aggrieved by the same, the petitioner has filed this writ petition.

5.The learned counsel appearing for the petitioner would submit that without going into the merits of the case, this Court may permit the petitioner to file appeal under Section 47 (A) (5) of the Indian Stamp Act before the the Chief Controlling Revenue Authority, within a period of two weeks from the date of receipt of a copy of this order and thereafter, the Chief Controlling Revenue Authority may be directed to pass appropriate orders.

6.The first respondent has filed counter affidavit, wherein, paragraph no.8 reads as follows:

> "8. It is submitted that the allegation in Para 5 are all devoid of truth. Consequent to the Field Inspection by the Special Tahsildar, [Stamps] Notices under Form II and III were sent to the Petitioner by the 1st Respondent on 18.01.2008 and 29.02.2008 respectively. However, the Petitioner has not cared to appear in the enquiry and submit his statement of defence. Then only final order was sent on 25.07.2008. Hence, it is wrong to allege that the 1st Respondent has violated the Principles of natural justice. In this connection, it is once again reiterated that the Petitioner has not attended the enquiry before the 1st Respondent for the reasons best known to him."

7.The learned Special Government Pleader appearing for the respondents would submit that there is appeal remedy available to the petitioner before the Chief Controlling Revenue Authority under Section 47 (A) (5) of the Indian Stamp Act.

8.Considering the fact that Notices under Form II and III were sent to the petitioner by the first respondent on 18.01.2008 and 29.02.2008 respectively and the petitioner has not cared to appear for the enquiry and submit his statement of defence and the fact that there is appeal remedy available to the petitioner before the Chief Controlling Revenue Authority under Section 47 (A) (5) of the Indian Stamp Act, this Court is of the opinion that filing of the writ petition is un-sustainable one.

9.The petitioner is permitted to file appeal before the Chief Controlling Revenue Authority, within a period of two weeks from the date of receipt of a copy of this order. Though the Chief Controlling Revenue Authority is not arrayed as a party in this writ petition, this Court directs the Chief Controlling Revenue Authority to dispose of the appeal that is to be filed by the petitioner, within a period of twelve weeks from the date of filing of the appeal. The period during which the writ petition was pending before this Court shall be excluded for the purpose of limitation.

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

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

pri
To

1.The Chief Controlling Revenue Authority/
Inspector General of Registration,
100, Santhome High Road,Chennai 600 028.

2.The Special Deputy Collector (Stamps)
Special Deputy Collector Office,Trichirappalli.

3.The Sub Registrar,
Jayangondam,
Udayarpalayam Taluk,Ariyalur District.

+1cc to M/s.Usha Ramman , Advocate SR.No. 92328
+1 cc to Government Pleader Sr.No. 93067

W.P.No.9262 of 2009
And
M.P.No.1 of 2009

A.SK(13/12/2019)