IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.11.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P. No.25349 of 2013

Ezhumalai .. Petitioner

-vs-

1. The Special Deputy Collector (Stamps),
   Collectorate Building,
   Velloe-600 009.

2. The Thasildar,
   Kalasapakkam,
   Tiruvannamalai District.

3. The Sub-Registrar,
   Kadaladi,
   Tiruvannamalai District. .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in his Proceeding CV:37303/02/KLD dated 13.08.2013 relating to document number 1734/2002 and quash the same and direct the respondents to release the said document to the petitioner within a stipulated time.

For Petitioner : Mr.B.Jawahar

For Respondents 1 to 3 : Mr.P.P.Purushothaman, Govt. Advocate

ORDER

Mr.Ezhumalai has come to this Court questioning the correctness of the impugned order dated 13.08.2013 passed by the Special Deputy Collector (Stamps), Vellore calling upon him to pay the amount mentioned therein.

2. Learned counsel for the petitioner submitted that the petitioner is an agriculturalist who purchased 30 cents of

agricultural land in 2002 in Survey No.952/3B from one Pasupathy by virtue of a sale deed registered on the file of the Sub Registrar, Kadaladi, Tiruvannamalai, the third respondent herein and the document has been assigned Document No.1734/2002. It is the claim of the petitioner that he had paid the necessary charges for registration and stamp duty. When he approached the Sub Registrar, Kadaladi, the 3rd respondent to get back the registered document, the Sub Registrar, Kadaladi directed the petitioner to approach the Special Deputy Collector (Stamps), Vellore, the 1st respondent herein for release of the document. At the same time, the Sub Registrar also informed the petitioner to pay the deficit stamp duty, since the value for the land was calculated on the basis of the guideline value. As the petitioner has purchased only an agricultural land and also produced the certificate issued by the Village Administrative Officer that the land is an agricultural land, the Sub Registrar, Kadaladi, without any regard, directed the petitioner to approach the Special Deputy Collector (Stamps), the first respondent herein. Accordingly, the petitioner also approached the first respondent and explained to him the current position by showing the VAO's certificate and the adangal extract to him. In spite of that, he has demanded the petitioner to pay the deficit stamp duty of Rs.15,424/- and thereafter on 4.1.2013, the second respondent also issued a notice stating that the Revenue Inspector was authorised to take necessary proceedings for recovery of the deficit stamp duty of Rs.15,424/-. On receipt of the same, the petitioner also paid a sum of Rs.15,424/- and the learned counsel also produced the proof for such payment before this Court.

3. The learned Counsel for the petitioner further submitted that thereafter, the first respondent again issued a notice on 13.8.2013 vide proceedings bearing CV:3703/2002/KLD calling upon the petitioner to pay the entire sum of Rs.22,325/- as deficit stamp duty for document no.1734/2002. Therefore, according to the learned counsel for the petitioner, when there was an earlier communication calling upon the petitioner to pay a sum of Rs.15,424/-, the same was paid and even after payment of the said amount, the respondents cannot call upon the petitioner to pay a sum of Rs.22,365/-. Therefore, the impugned order is liable to go.

4. A detailed counter affidavit has been filed by the 1st respondent.

5. A perusal of paragraph-3 of the counter affidavit shows that when the petitioner was issued with Form-I SR 3703/02 on 20.10.2002 calling upon him to pay the deficit stamp duty of

Rs.15,424/- within sixty days time, the petitioner has kept quiet and a final order was passed on 31.8.2005 directing the petitioner to pay the sum within sixty days time, failing which interest at the rate of 2% for Rs.100/- would be liable to be paid. Again the petitioner has not paid the deficit stamp duty within sixty days time. Therefore, the matter was referred to the second respondent to collect the dues under the Revenue Recovery Act. Only after issuance of notice, the petitioner has remitted the amount on 24.1.2013. Now the petitioner has to pay interest that has been worked out from 31.8.2005, namely, from the date of final order passed till the amount was remitted on 24.1.2013, at the rate of 24% from 31.8.2005 to 31.8.2010, again at the rate of 12% from 1.9.2010 to 23.1.2013.

6. Considered the rival submissions made on either side and I have also perused the materials available on record carefully.

7. It is an admitted case of both sides that the petitioner purchased 30 cents of agricultural land in 2002 in Survey No.952/3B from one Pasupathy by virtue of a sale deed registered on the file of the Sub Registrar, Kadaladi, Tiruvannamalai, the third respondent herein and the document has been assigned Document No.1734/2002. It is not in dispute that the petitioner made necessary charges for registration and for stamp duty. Subsequently, it has been found out that there was a deficit stamp duty of Rs.15,424/-. This was also not disputed by the petitioner. But the crux of the issue raised in the present writ petition is that when the petitioner also admits that the deficit stamp duty is Rs.15,424/- payable by him as on the date of registration, since the order was passed only in 2005, the non-payment of the said amount till 2013 on the day, the impugned notice demanding the payment of deficit stamp duty was issued, the petitioner is liable to pay the interest thereon. However, when a notice was issued on 19.04.2013, calling upon him to pay a sum of Rs.15,424/- and the same having been paid, the 1st respondent cannot ask for again interest on the said amount from the date of registration till 24.01.2013 in the impugned notice dated 13.8.2013, when there is no specific mention about the payment of interest in the said notice.

8. The said contention of the learned Counsel for the petitioner cannot be accepted for the simple reason that when there was a deficit stamp duty payable by the petitioner found on the date of registration and the said amount has not been paid by the petitioner till 21.3.2017, the interest at the rate of 2% from 31.8.2005 to 31.8.2010 and the rate of interest at 1%

from 1.9.2010 to 23.1.2013 have to be paid by the petitioner and the same cannot be found fault with.

9. In view of all the above, the Writ Petition fails and the same is accordingly dismissed. However, two weeks time is granted to the petitioner to pay the interest and on receipt of the same, the respondents are directed to release the document forthwith after complying with all the procedure contemplated therein. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Deputy Collector (Stamps),
   Collectorate Building,
   Velloe-600 009.

2. The Thasildar,
   Kalasapakkam,
   Tiruvannamalai District.

3. The Sub-Registrar,
   Kadaladi,
   Tiruvannamalai District.

+1cc to Government Pleader SR.NO. 98937

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