IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.08.2019

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THE HONOURABLE MR.JUSTICE T.RAJA

C.M.A. No.2245 of 2019 and
C.M.P. Nos.9572 and 9580 of 2019

P.Jaganathan .. Appellant/Petitioner

-vs-

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai-600 028.

2.The Special Deputy Collector (Stamps),
O/o.The District Collector,
Salem-636 001.

3.The Sub Registrar,
Mallasamuthiram,
Salem District. .. Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Section 47A (10) of the Indian Stamps Act, 1899 against the impugned notice S.R.799/03 dated 17.03.2009 issued by the Sub Registrar, Mallasumuthiram, Salem District, the third respondent.

For Appellant : Mr.T.Karunakaran

For Respondents : Mr.T.M.Pappiah,
Special Government Pleader

JUDGMENT

The appeal has been filed challenging the impugned notice S.R.799/03 dated 17.03.2009 issued by the Sub Registrar, Mallasumuthiram, Salem District, the third respondent herein.

2.Learned counsel appearing for the appellant would submit that when the appellant purchased an agricultural land to an extent of 2.85 acres through Sale Deed dated 19.09.2003, registered as Document No.1291/2003, the sale deed was presented by the appellant before the third respondent herein and the same has been referred to the second respondent under Section 48A(1) of the Indian Stamp Act 1899. Learned counsel appearing for the appellant would further submit that the petitioner has received Form I dated 18.11.2003 issued by the second respondent, by which, he has ordered the petitioner to pay a sum of Rs.1,40,301/- as deficit stamp duty under the Collection of Revenue Act. Subsequently, the petitioner made a reply to the second respondent, but, there was no reply from him. While so, the petitioner received a notice dated 17.03.2009 from the third respondent in which it has been stated that the petitioner has to pay the deficit stamp fee of Rs.97,883/- along with interest within 15 days, otherwise, the property will be taken on auction. Since the sale deed was registered on 19.09.2003, till date, the respondents have not come forward to initiate any proceedings under Indian Stamp Act, but, without hearing and giving opportunity to the petitioner, the third respondent herein issued the impugned notice dated 17.03.2009. Therefore, the petitioner has been advised to come to this Court.

3.However, the Government issued G.O. Ms. No.193 Commercial Taxes Department dated 27.12.2004 announcing the Samadhan Scheme facilitating the purchasers to pay only 60% of stamp duty out of the total amount payable under Section 47A(1) of Indian Stamp Act from 28.12.2004 to 27.03.2005. But, no notice whatsoever has been served on the petitioner by the respondents to avail the said concession.

4.On the other hand, learned Special Government Pleader appearing for the respondents would submit that although notice was sent to the petitioner on 31.12.2004, he has not responded and therefore, the second respondent has also sent another notice on 08.06.2006, but, the petitioner has not come forward to pay the amount.

5.In reply, learned counsel appearing for the petitioner submitted that the above two notices have not been received by the petitioner and if he receives the same, he would definitely avail the benefit of Samadhan Scheme.

6.Although this Court directed the respondents to produce the copy of the above notices dated 31.12,2004 and 08.06.2006, they have not come forward to produce the same and there is no proof showing that the respondents have sent the above notices to the petitioner. Therefore, this Court, holding that the petitioner is entitled to avail the benefit of Samadhan scheme prevails between 28.12.2004 and 27.03.2005, directs the petitioner to pay 60% of the stamp duty namely, Rs.84,181/- and Rs.7,014/- towards deficit stamp duty and registration fee. With the above direction, the appeal stands disposed of. Consequently, connected C.M.Ps are closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vga

To

1.The Inspector General of Registration,
Santhome High Road,
Mylapore, Chennai-600 028.

2.The Special Deputy Collector (Stamps),
O/o.The District Collector,
Salem-636 001.

3.The Sub Registrar,
Mallasamuthiram,
Salem District.

+2cc to Mr.T.Karunakaran, Advocate sr.75885
+1cc to Government Pleader sr.76514

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