IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2019

CORAM:

THE HON'BLE MR.JUSTICE T.RAJA

W.P.No.8773 of 2016

R.Muniyandi @ Chandran .. Petitioner

Vs

1. District Revenue Officer (Stamps),
   5th Floor, Singaravelan Maligai,
   Chennai - 1.

2. The Sub Registrar,
   O/o. Sub Registrar,
   Red Hills, Chennai - 52. .. Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus to call for the records in the impugned notice dated 08.02.2016 in Na.Ka.No. 20/16/A4 issued by the first respondent and quash the same and further direct the respondents to delete the endrosement of payment of deficit stamp duty in the Encumberance Certificate in Doc.No.11409/2014 on the file of the second respondent.

For petitioner : Mr.P.Sudalaiyandi

For Respondents : Mr.P.P.Purushothaman

ORDER

By way of filing this writ petition, the petitioner seeks to quash the notice dated 08.02.2016 issued under Section 47-A of the Stamp Act by the first respondent/District Revenue Officer (Stamps), Chennai, with a further direction to the respondents to delete the endorsement of payment of deficit stamp duty in the Encumberance Certificate bearing Doc.No.11409/2014 on the file of the second respondent.

2. Learned counsel for the petitioner submitted that the petitioner purchased a vacant land to an extent of 1 acre comprised in Survey No.257/2A, situated at Puzshal Village, Madhavaram Taluk, Tiruvallur District, from one Mr.Selvam, vide sale deed dated 31.03.2011 registered as Document No.3582/2011.

After the registration of the said document, the same was referred to the first respondent for determination of the market value of the property under Section 47-A of the Stamp Act. Since the Government of Tamil Nadu also issued a Scheme, namely, Samadhan Scheme, during pendency of 47-A proceedings, as per G.O.Ms.No.132, Commercial Tax and Registration Department, dated 13.10.2011, the petitioner had paid 2/3rd of the deficit stamp duty and thereby, he had also obtained the Document bearing No.3582/2011 from the respondents on 28.01.2012. Only after obtaining the said document, the petitioner came to know about the mistake/typographical error occurred in the boundaries of the schedule mentioned property. Immediately, he approached the second respondent to rectify the same and accordingly, he has also presented the Rectification Deed for rectifying the boundaries in the sale deed bearing Document No.3582/2011 as stated below:-

	Should be shown as	Instead of
North by	Canal	Canal
South by	S.No.255	S.No.255
East by	Ramachandran's remaining land in S.No.257/2A	S.No.257/2B
West by	S.No.257/1C	Ramachandran's remaining land in S.No.257/2A

3. Since the above said mistakes have been committed only due to oversight and typographical error and that there was no extent or valuation of the property of the original sale deed altered or changed, the rectification deed presented by the petitioner was also registered as Document No.11409/2014, dated 07.11.2014 by the second respondent after obtaining necessary payment of registration charges and thereafter, the same was also released to the petitioner. However, after a period of two years, the petitioner received the impugned notice under Section 47-A of the Stamp Act from the first respondent on 08.02.2016 stating that document No.11409/2014 registered on the file of the Sub Registrar Officer, Red Hills, requires the payment of deficit stamp duty to the tune of Rs.24,45,288/-.

4. Adding further, learned counsel for the petitioner has relied on a judgment of this Court in P.Uthamaraj Vs. District Registrar, Chennai [(2010) 1 MLJ 246], for a proposition that in cases, where, by rectification, there is no alteration in the basic nature of the document especially in the extent and valuation of the property or where the rectification is only in respect of technical aspect such as typographical error or where the rectification is in respect of extent of property while the actual measurement remains unchanged, there is no question of application of Schedule I or application of

Section 47-A of the Indian Stamp Act. By relying the said judgment, it is contended, in the case on hand, since there is only a typographical error without changing the basic structure of document, the impugned notice issued by the first respondent under Section 47-A of the Stamp Act cannot stand to legal scrutiny in the light of the above said judgment of this Court.

5. Learned Government Advocate appearing for the respondents, by filing a counter affidavit, submitted that after the verification of the Rectification Deed presented by the petitioner, the first respondent fixed the value of the schedule mentioned property and thereby issued the impugned notice dated 08.02.2016 under Section 47-A of the Stamp Act directing the petitioner to remit the deficit stamp duty to the tune of Rs.24,45,288/-. However, without responding to such notice issued by the first respondent, the petitioner has straightaway come to this Court by filing this writ petition and therefore, the same is be liable to be dismissed.

6. Heard the learned counsel appearing on either side.

7. It is not in dispute that the petitioner has purchased a vacant land to an extent of one acre in Survey No.257/2A, situated at Puzshal Village, Madhavaram Taluk, Tiruvallur District, vide sale deed dated 31.03.2011 registered as document No.3582/2011 on the file of the Sub Registrar Office, Red Hills, Chennai. In the Rectification Deed, he sought for rectification of the boundaries as stated below:-

	Should be shown as	Instead of
North by	Canal	Canal
South by	S.No.255	S.No.255
East by	Ramachandran's remaining land in S.No.257/2A	S.No.257/2B
West by	S.No.257/1C	Ramachandran's remaining land in S.No.257/2A

Accepting the Rectification Deed presented by the petitioner that there was a typographical error occurred, the second respondent registered the Rectification Deed after obtaining necessary payment of registration charges and thereafter, the same was also registered as Document No.11409/2014, dated 07.11.2014 and after the completion of all the formalities, the said document was also released to the petitioner.

8. Whileso, after a period of two years, the first respondent issued the impugned notice dated 08.02.2016 under Section 47-A of the Stamp Act directing the petitioner to pay the deficit stamp duty to the tune of Rs.24,45,288/-. When the

petitioner has clearly indicated in the Rectification Deed that only boundary particulars in the schedule mentioned property has been wrongly stated, there is no need for payment of deficit stamp duty. This was also accepted by the second respondent and thereafter, Rectification Deed was also registered and released to the petitioner. Whileso, the impugned notice issued by the first respondent calling upon the petitioner to remit the deficit stamp duty is not justifiable in the light of the settled legal position of this Court in P.Uthamaraj's case (cited supra). For better appreciation, paragraph No.15 of the said judgment is quoted below:-

> "15. At the risk of repetition, it is made clear that if by way of rectification deed, the extent is going to be increased, certainly for the difference in extent, the registering authority is entitled to charge the stamp duty under Schedule I. But, it is not open to the registering authority to reopen the original sale that took place in the year 2003 for the purpose of fresh assessment of value as on the date of rectification of typographical error and by imposing stamp duty on the rectification deed and to seek to recover the difference of stamp duty from the petitioner. Inasmuch as the registering authority at the time of presentation of document for registration in the year 2003 did not raise any objection under Section 47-A of the Act, it is not open to the respondents to raise the dispute regarding valuation now. "

A mere reading of the above said ratio depicts that where there is no alteration in the basic nature of the document especially in the extent and valuation of the property or where the rectification is only in respect of technical aspect such as typographical error, there is no question of application of Schedule I or application of Section 47-A of the Indian Stamp Act. As highlighted above, in the case on hand, Rectification Deed presented by the petitioner to rectify the boundaries stated in the schedule mentioned property was accepted and registered on the file of the second respondent vide Document No.11409/2014, dated 07.11.2014. Whileso, the impugned notice dated 08.02.2016 issued by the first respondent, that too, after a period of two years from the date of registration of Rectification Deed, directing the petitioner to pay the deficit stamp duty to the tune of Rs.24,45,288/-, cannot be sustained in the eye of law in the light of the ratio laid down by this Court in P.Uthamaraj's case (cited supra).

9. Therefore, in such view of the matter, as the issue involved in the present case is squarely covered by the above said judgment and that there has been no increase or decrease of the value of the property and that the extent of the property also has not been changed, the impugned notice dated 08.02.2016 issued by the first respondent is set aside. Consequently, the respondents are directed to delete the endorsement of payment of deficit stamp duty made in the Encumbrance Certificate within a period of two weeks from the date of receipt of a copy of this order. With this direction, the writ petition is allowed as prayed for. No Costs. WMP.No.7786 of 2016 is closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

rkm

To

1. District Revenue Officer (Stamps),
   5th Floor, Singaravelan Maligai,
   Chennai - 1.

2. The Sub Registrar,
   O/o. Sub Registrar,
   Red Hills, Chennai - 52.

+1cc to Mr.S.P.Sudalaiyandi, Advocate, S.R.No.79012
+1cc to the Government Pleader, S.R.No.79684

W.P.No.8773 of 2016

PP(CO)
CS/31/10/2019