

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.01.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.31398 of 2018
and W.M.P.No.36583 of 2018

B.Anusuya

.. Petitioner

Vs.

1. The Special Deputy Collector-Stamps,
Collectorate, Thanjavur.
2. The District Registrar,
Nagapattinam District,
Nagapattinam.
3. The Sub-Registrar,
Mannargudi,
Tiruvavarur District.

.. Respondents

* * *

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorari calling for the records of the first respondent in S.R.Sl.No.91/18 (Stamps) dated 05.10.2018 and quash the same as illegal, arbitrary, against the provisions of the Act and also against the principles of natural justice.

* * *

For Petitioner : Mr.K.Soundararajan

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

O R D E R

The prayer of the petitioner is to quash the order of the first respondent in S.R.Sl.No.91/18 (Stamps) dated 05.10.2018.

2. The petitioner presented a sale deed for registration of agricultural lands. It was kept pending without registration by the third respondent. The petitioner sent a request to the second respondent on 02.08.2017 in the first instance and thereafter, to the

Deputy Inspector General of Registration, Thanjavur, on 09.12.2017 with a copy to the second and third respondent and also to the Inspector General of Registration. The Deputy Inspector General of Registration directed the second respondent to take appropriate action. Resultantly, the third respondent sent a notice to the petitioner directing him to get chitta, adangal, topo sketch for taking further action, which direction, the petitioner complied with. Consequently, the order impugned in this writ petition was served on the petitioner on 11.10.2018.

3. Learned counsel for the petitioner submitted that though in the communication, the third respondent asked the petitioner to produce certain documents to cause inspection of the subject land to arrive at a guideline value on the ground that the same is not available, no notice was served on the petitioner to cause inspection of the land and without any basis arbitrarily fixed the guideline exorbitantly. It is also submitted that the first respondent failed to follow the mandatory procedure contemplated under the Tamil Nadu Stamp (Prevention of Undervaluation of Instruments) Rules, 1968 (in short "1968 Rules") and hence, the impugned order is liable to be quashed for violation of principles of natural justice.

4. Heard Mr.T.M.Pappiah, learned Special Government Pleader. Though the learned Special Government Pleader submitted that the petitioner was served with the notice on 20.03.2018 for personal appearance on 09.04.2018 and the petitioner failed to appear for enquiry, he fairly conceded that the matter may be remanded back to the first respondent for fresh consideration, after affording opportunity to the petitioner.

5. Section 47-A(1) of the Indian Stamp Act, 1899, says the registering authority, while registering any instrument of conveyance, has reason to believe that the market value of the property has not been truly set forth in the instrument, after registering such instrument refer the same to the Collector for determination of the market value of such property and the proper duty payable thereon. Sub-section (2) of Section 47-A says that the Collector, on receipt of a reference, after giving the parties a reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules, shall determine the market value of the property and the difference shall be payable by the person liable to pay the duty.

6. Rule 4(3)(c) of the 1968 Rules mandates the Collector to inspect the property after due notice to the

parties concerned. While Rule 5 speaks about the principles to be taken into account by the Collector for determination of market value for lands, house sites, buildings and other properties, Rule 6 deals with procedure that has to be followed after arriving at provisional market value. Rule 6 of the 1968 Rules is usefully extracted hereunder :

"6. Procedure after arriving at provisional market value - The Collector shall communicate a copy of his order provisionally determining the market value of the properties and the duty payable, to all the persons who are liable to pay the duty along with the notice in Form II and call upon the parties to lodge their objections, if any, to such determination of the market value within the time specified in the notice. The Collector shall also hear the parties on the date specified in the notice or on such other day as may be fixed by him."

7. The narration of facts and the submission of the learned counsels for the parties make it clear that Section 47-A of the Indian Stamp Act and the aforesaid Rules are not followed in their letter and spirit. As stated above, though the first respondent in the impugned order stated that a notice in Form II was sent to the petitioner on 20.03.2018, the same is disputed by the petitioner. To substantiate the claim of the first respondent, no material is placed before this Court. Hence, the order impugned in this writ petition is liable to be set aside on the sole ground of violation of principles of natural justice.

8. In the result, this writ petition is allowed and the impugned order of the first respondent dated 05.10.2018 is set aside and the matter is remanded back to the first respondent for fresh consideration. Needless to say that the first respondent shall follow the procedure contemplated under the Indian Stamp Act and the 1968 Rules. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1. The Special Deputy Collector-Stamps,
Collectorate, Thanjavur.

2. The District Registrar,
Nagapattinam District,
Nagapattinam.

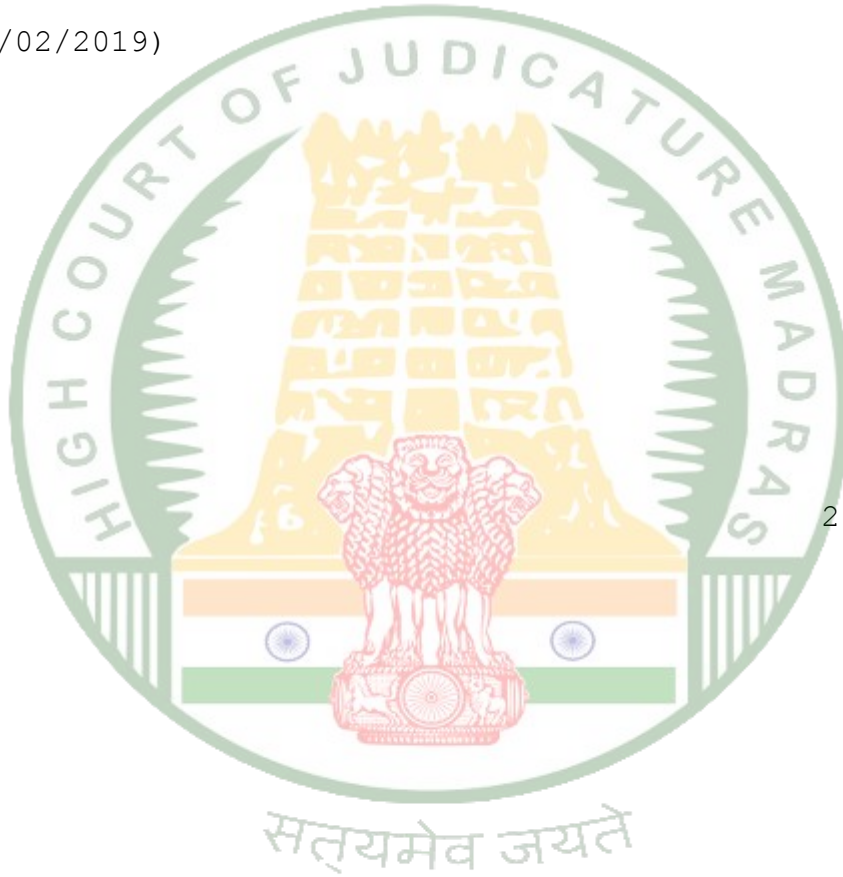
3. The Sub-Registrar,
Mannargudi,
Tiruvarur District.

+1cc to Mr. K.Soundararajan, Advocate SR.No. 8273

+1 CC TO GOVERNMENT PLEADER SR.NO. 8799

W.P.No.31398 of 2018

A.SK(20/02/2019)



29.01.2019

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