BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 04.02.2019
CORAM:
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
WP(MD)No.1973 of 2015
and
MP(MD)No.1 of 2015

Jeyaleela Carunia ... Petitioner

Vs.

1.The District Collector,
O/o. District Collector,
Madurai District, Madurai.

2.Deputy Collector (Stamps),
District Collector Office,
Madurai District.

3.The District Registrar (Administration),
(Assistant Registration Head),
Madurai South, Madurai District.

4.The Joint Sub Registrar,
(Additional Incharge),
Madurai South, Madurai. ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned communication in Na.Ka.No.5095/R1/2014 dated 30.09.2014 on the file of the respondent No.4 and quash the same as illegal and consequently to direct the respondents herein to release the sale deed registered on 03.02.2012 in favor in receipt No.P57/2012.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.M.Murugan, Government Advocate

ORDER

The petitioner questions the impugned communication dated 30.09.2014 issued by the fourth respondent demanding payment of deficit stamp duty. The document presented for registration has not been returned also. It has been impounded. The learned counsel appearing for the petitioner points out that the petitioner had entered into a sale agreement with her vendor in the year 1992 and that after the getting the decree got the document executed in her favour. Now, the question is which would be the relevant date for determining the market value of the property for the purpose of stamp duty.

2.The petitioner's case is that the date of sale agreement would be the relevant date. Unfortunately, there has been a march of law though this was the original position held by the courts. The Hon'ble Supreme Court in the decision reported in (2007) 14 SCC 339 (State of Rajasthan and others v. Khandaka Jain Jewellers) had held that a market value prevailing at the time of registration alone would be the relevant date and that one should not go by the value mentioned in the instrument.

3.In view of the above legal position, relief cannot be given to the petitioner. The learned counsel appearing for the petitioner pointed out that the competent authority to determine the deficit stamp duty would only be the Special Deputy Collector (Stamps) and not the fourth respondent herein. The petitioner is right. Then, the impugned communication will have to be treated as a ground for not releasing the document. The Hon'ble Division Bench of this Court held that in such matters the document should be impounded and not released till the proceedings under Section 47 (A) of the Indian Stamp Act are finalised.

4.Therefore, this writ petition is dismissed. However, there shall be a direction to the respondents to refer the matter under Section 47 A (1) of the Indian Stamp Act at the earliest, in any event, within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

Sub Assistant Registrar

Skm

To

1.THE DISTRICT COLLECTOR,
MADURAI DISTRICT, MADURAI.

2.THE DEPUTY COLLECTOR,(STAMPS)
DISTRICT COLLECTOR OFFICE, MADURAI DISTRICT.

3.THE DISTRICT REGISTRAR (ADMINISTRATION),
(ASSISTANT REGISTRATION HEAD), MADURAI SOUTH, MADURAI DISTRICT.

4.THE JOINT SUB REGISTRAR,
(ADDITIONAL INCHARGE), MADURAI SOUTH, MADURAI.

1 CC to M/s.SPL GP (SR-44958[F] dated 05/02/2019)

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