



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.10334 and 10335 of 2019

and

W.M.P. (MD) Nos.7962 and 7963 of 2019

S.Muthusaravanan

... Petitioner in both petitions

-Vs-

The No.2, Joint Sub Registrar,
No.2, Joint Sub Registration Office,
Karur.

... Respondent in both petitions

Prayer: Writ Petitions - filed under Article 226 of Constitution of India, to issue a writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in Letter Nos.1 and 2 of 2019 respectively dated 28.03.2019 and quash the same as illegal and arbitrary and without jurisdiction and consequently directing the respondent to delete the adverse entry made in the Encumbrance in view of the alleged deficit stamp duty in the Release Deed 09.07.2018 vide Document Nos.1055 and 1056 of 2018 respectively on the file of the respondent.

For Petitioner : Mr.K.Suresh

For Respondent : Mr.M.Murugan, Govt. Advocate

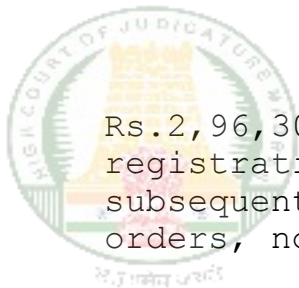
COMMON ORDER

The prayer in these writ petitions is for a Writ of Certiorari, calling for the records relating to the impugned order passed by the respondent in Letter Nos.1 and 2 of 2019 respectively dated 28.03.2019 and quash the same as illegal and arbitrary and without jurisdiction and consequently directing the respondent to delete the adverse entry made in the Encumbrance in view of the alleged deficit stamp duty in the Release Deed 09.07.2018 vide Document Nos.1055 and 1056 of 2018 respectively on the file of the respondent.

2.Heard Mr.K.Suresh, learned counsel appearing for the petitioner and Mr.M.Murugan, learned Government Advocate appearing for the respondent. Since the parties and the prayer in both the writ petitions are one and the same, these writ petitions are being disposed of by this common order.

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3.The impugned orders dated 28.03.2019 in these writ petitions directed the petitioner to pay a particular amount i.e.



Rs.2,96,305/- and Rs.32,200/-respectively (deficit stamp duty and registration charges), which according to the respondent, was subsequently found as deficit. However, before passing these orders, no notice has been given and no enquiry has been conducted.

4.In this regard, the learned counsel appearing for the petitioner would submit that, since no notice has been issued before passing these adverse impugned orders, the orders cannot be sustained.

5.I have heard the learned Government Advocate in this regard, who would fairly submit that, if no notice had been given by the respondent before passing these impugned orders, on that ground, the impugned orders can be quashed and the matter can be remitted back to the respondent for reconsideration.

6.Considering the said submission and having regard to the facts of the issue as admittedly no notice has been given to the petitioner before passing the impugned orders, on the ground of violation of principles of natural justice, the impugned orders in both the writ petitions are unsustainable.

7.In that view of the matter, this Court is inclined to pass the following direction:

"The impugned order in both the writ petitions are quashed and the matter is remitted back to the respondent for reconsideration. While reconsidering the matter, the respondent shall give notice to the petitioner and after giving an opportunity of being heard, final order can be passed, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. While conducting an enquiry after affording opportunity to the petitioner, the competent authority i.e., the District Registrar shall conduct the enquiry."

8.With this direction, these writ petitions are ordered accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar (CS)

Arul



To

1. The District Registrar,
Karur.

2. The No.2, Joint Sub Registrar,
No.2, Joint Sub Registration Office,
Karur.

+2CC TO MR.K.SURESH, Advocate Sr. No.75102 & 75101

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No.75033 & 75032

Order made in
W.P. (MD) No.10334 and 10335 of 2019
and
W.M.P. (MD) Nos.7962 and 7963 of 2019
Dated: 11.07.2019

SE(CO)

TR (24.07.2019) 3P 6C