



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.12.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD)No.25790 of 2019

and

W.M.P. (MD)No.22320 and 22321 of 2019

WEB COPY

P.Lakshmikanth

... Petitioner

vs.

1.The Deputy Inspector of General Registration,  
Tirunelveli.

2.The District Registrar,  
Kanyakumari at Nagercoil.

3.The Sub-Registrar,  
Vadasery, Kanyakumari District.

... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, to direct the third respondent to accept the sale deed being presented for registration of the same with the stamp duty calculated as Rs.2,530/- per square meter in connection with the property situated in R.S.No.322/1A1A1A, Annai Nagar (Before sub division Survey No.332/1), Thiruppathisaram Village, Thoivalai Taluk, Kanyakumari District and further direct him to register the same in pursuance to the order passed by the second respondent vide his proceedings in Na.Ka.No.3397/U3/2019, signed on 10.09.2019.

For Petitioner

:Mr.R.Anand

For Respondents

:Mr.V.Anand

Government Advocate

### **O R D E R**

This Writ Petition is filed for issuing a Writ of Mandamus to direct the third respondent to accept the sale deeds being presented for registration with the stamp duty calculated at Rs.2,530/- per square meter in connection with the property situated in R.S.No.322/1A1A1A, Annai Nagar (Before sub division Survey No.332/1), Thiruppathisaram Village, Thoivalai Taluk, Kanyakumari District and to register the same in accordance with the proceedings of the order passed by the second respondent, dated 10.09.2018.



2.By consent of both parties, the Writ Petition is taken up for final disposal at the stage of admission itself.

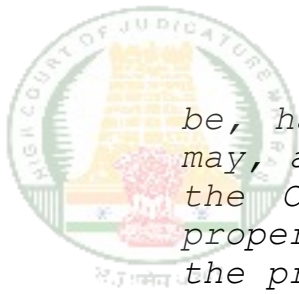
3.The brief facts that are necessary for the disposal of this Writ Petition are as follows:

3.1.The petitioner claims to be the exclusive owner of the property in R.S.No.322/1A1A1A, Annai Nagar, Thiruppathisaram Village, Thovalai Taluk, Kanyakumari District. The petitioner has plotted out the lands and developed the site by forming a lay out in the name of "Annai Nagar". The petitioner has stated that he has started selling the plots. Since the third respondent has refused to register documents produced before him, on the ground that the documents had to be valued at the rate of Rs.2,530/- per square meter, the petitioner challenged the decision of the second respondent before the first respondent and the first respondent vide his letter, dated 09.10.2018, has informed the second respondent that he is waiting an order from his superior regarding fixing of guidelines regarding the properties that have been registered during the ban period.

3.2.In the meanwhile, the petitioner presented three documents, namely, sale deeds, dated 14.10.2019 and 24.10.2019. The present Writ Petition is filed on the apprehension that the documents would be returned, even after collecting the stamp duty at the rate of Rs.2,530/- per square meter. Having regard to the statement of facts narrated in the affidavit filed in support of this Writ Petition, this Court doubts the *bona fides* of the petitioner in coming to Court with the present Writ petition.

4.First of all, it is to be noted that the Sub Registrar is expected to deal with the registration of any document, as provided under the Registration Act. The functioning of Sub Registrar, as an authority for the purpose of registration of a document, is dealt with under the Registration Act. It is the apprehension of the petitioner that the petitioner though had paid stamp duty at the rate of Rs.2,530/- per square meter and presented three documents for registration, the Registrar has kept the documents without registration. If the Registrar keep the document pending for no valid reasons, the petitioner can very well challenge the non-registration of document for any valid ground. The petitioner has come forward with the prayer, which would be dealt with in accordance with the provisions of Indian Stamp Act, 1899. Section 47-A of the Act reads as follows:

**"47-A.** (1) *If the Registering Officer appointed under the Registration Act, 1908 (Central Act No.16 of 1908), while registering any instrument relating to the transfer of any property, has reason to believe that the value of the property or consideration, as the case may*



be, has not been truly set forth in the instrument, he may, after registering such instrument, refer the same to the Collector, for determination of the value of the property or the consideration, as the case may be, and the proper duty payable thereon.

(2) On receipt of reference under sub-section (1), the Collector shall, after giving the parties reasonable opportunity of being heard and after holding an enquiry in such manner as may be prescribed by rules under this Act, determine the value or consideration and the duty as aforesaid and the deficient amount of duty, if any, shall be payable by the person liable to pay the duty.

(3) The Collector may, suo moto, or on the receipt of a reference from the Inspector General of Registration or Registrar of a District appointed under the Registration Act, 1908 (Central Act No. 16 of 1908), in whose jurisdiction the property or any portion thereof which is the subject matter of the instrument is situated or on the receipt of a report of audit by the Comptroller and Auditor General of India or by any other authority authorized by the State Government in this behalf or otherwise, within a period of three years from the date of the registration of an instrument, call for and examine any instrument for the purposes of satisfying himself as to the correctness of the value of the property or of the consideration disclosed and of all other facts and circumstances affecting the chargeability of the instrument or as to the true character and description thereof and the amount of the duty with which it was chargeable and if after such examination, he has reason to believe that proper duty has not been paid, he may, after giving the person concerned reasonable opportunity of being heard and after holding an enquiry in the manner provided under sub-section (2), determine the value of the property or the consideration or the character or description of instrument and the duty with which it was chargeable and the deficient amount of duty, if any, would be payable by the person liable to pay duty; and

(4) Any person aggrieved by an order of the Collector under sub-section (2) or sub-section (3) may, within thirty days from the date of that order, prefer an appeal before the District Judge and all such appeals shall be heard and disposed of in such manner as may be prescribed by rules made under this Act.

Explanation.-For the purpose of this section, value of any property shall be estimated to be the price which in the opinion of the Collector the appellate authority, as the case may be, such property would have



*fetches, if sold in the open market on the date of execution of the instrument relating to the transfer of such property."*

5. When an undervalued document is presented for registration, the Registration Officer, after registering such instruments has to refer the same to the Collector for determination of market value for such property and the proper duty payable thereon. The procedure that has to be followed, after referring the matter to the District Registrar to assess the market value, has also been set out under Section 47-A of the Act. In the present Writ Petition, the petitioner wants the Sub Registrar to accept the documents without following any procedure as contemplated under Section 47-A of the Act. On a close scrutiny, the prayer cannot be granted, as this would amount to direct the statutory authority to act ignoring the statutory provisions, particularly, Section 47-A of the Act. No Mandamus can be issued to direct the statutory authority to do something contrary or defiance of the statute.

6. That part, it appears that the petitioner apprehends some difficulties in getting documents registered on other grounds. Therefore, the prayer is couched in such a fashion that the petitioner will be getting the document registered, without following the other formalities required under the statute and the regulations regarding registration of plots in an unapproved layout. Since the purpose behind this litigation is not *bona fide*, this Writ petition is dismissed with a cost of Rs.1,000/- (Rupees One Thousand) to the credit of Legal Services Authority attached to this Bench within a period of one month from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

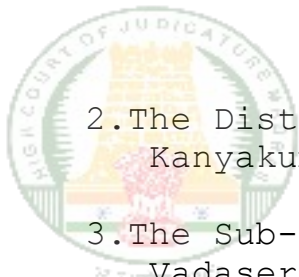
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Sub Assistant Registrar (CS)

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To

1. The Deputy Inspector of Registration,  
Tirunelveli.



2.The District Registrar,  
Kanyakumari at Nagercoil.

3.The Sub-Registrar,  
Vadasery, Kanyakumari District.

4.The Officer Incharge,  
Legal Services Authority  
Madurai Bench of Madras High Court, Madurai

+1 cc to The Special Government Pleader Sr.No.103572

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