

In the High Court of Judicature at Madras

Dated : 03.3.2020

Coram :

The Honourable Mr. Justice T.S.SIVAGNANAM

Writ Petition No.36733 of 2004 & WPMP.No.44100 of 2004

S.Dhanasekara Pandian

...Petitioner

Vs

1.The Sub-Registrar at the cadre of
District Registrar & Collector
of Stamp Duty, Kodambakkam
Sub-Registrar Office, Kodambakkam,
Chennai-24.

2.The Tahsildar, Mambalam-Guindy
Taluk, Chennai-78.

...Respondents

PETITION under Article 226 of The Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings of the first respondent dated 25.11.2003 in his proceedings No.I/52/2003 and also consequential notice issued by the second respondent dated 30.11.2004 in proceedings Na.Ka.No.A3/1711/2004, quash the same and forbear the respondents from making any demand for the deficit stamp duty of Rs.1,28,300/- relating to the rectification dated 14.7.1997 in doc.No.PD 535 on the file of the first respondent herein.

For Petitioner : Mr.P.Gunaraj

For Respondents: Mr.P.P.Purushothaman, GA

ORDER

I have heard the learned counsel for the parties.

2. This writ petition has been filed to quash the proceedings initiated by the first respondent dated 25.11.2003

and the consequential distraint notice dated 30.11.2004 issued by the second respondent and to forbear the respondents from demanding the deficit stamp duty of Rs.1,28,300/- in respect of a rectification deed dated 14.7.1997 registered as pending document No.535 of 1997 on the file of the first respondent herein.

3. The primary ground, on which, the impugned proceedings have been challenged is by contending that though the order was passed by the first respondent on 25.11.2003, the first respondent did not communicate the same to the petitioner and on 30.11.2004, the petitioner was issued with the notice by the second respondent calling upon him to pay a sum of Rs.1,28,300/- towards deficit stamp duty, failing which, he was threatened that distraint proceedings would be initiated.

4. The petitioner would state that he went to the office of the first respondent and requested for a copy of the impugned proceedings dated 25.11.2003 and subsequently, the first respondent sent the proceedings dated 25.11.2003 by post on 08.12.2004. Thereafter, the petitioner approached this Court.

5. The learned counsel for the petitioner submits that the demand of deficit stamp duty is wholly erroneous and is also barred by limitation and that had the proceedings dated 25.11.2003 been communicated to the petitioner together with reasons at appropriate time, the petitioner would have raised the contentions stating as to how the proposed demand is unsustainable.

6. This writ petition has been entertained in the year 2004 and an interim order has been granted on 13.12.2004. However, till date, no counter has been filed by the respondents. The impugned proceedings remain stayed for all these years. Considering the grounds raised by the petitioner, this Court is of the view that one more opportunity can be granted to the petitioner reserving his rights to raise all contentions including the plea of limitation.

7. For the above reasons, the writ petition is partly allowed, the distraint proceedings initiated by the second respondent dated 30.11.2004 is quashed and the petitioner is directed to treat the proceedings issued by the first respondent dated 25.11.2003 as a show cause notice and submit his objections to the first respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of the objections, the first respondent shall afford an opportunity of personal hearing to the petitioner and pass a speaking order

on merits and in accordance with law. No costs. Consequently,
the connected WPMP is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

RS

To

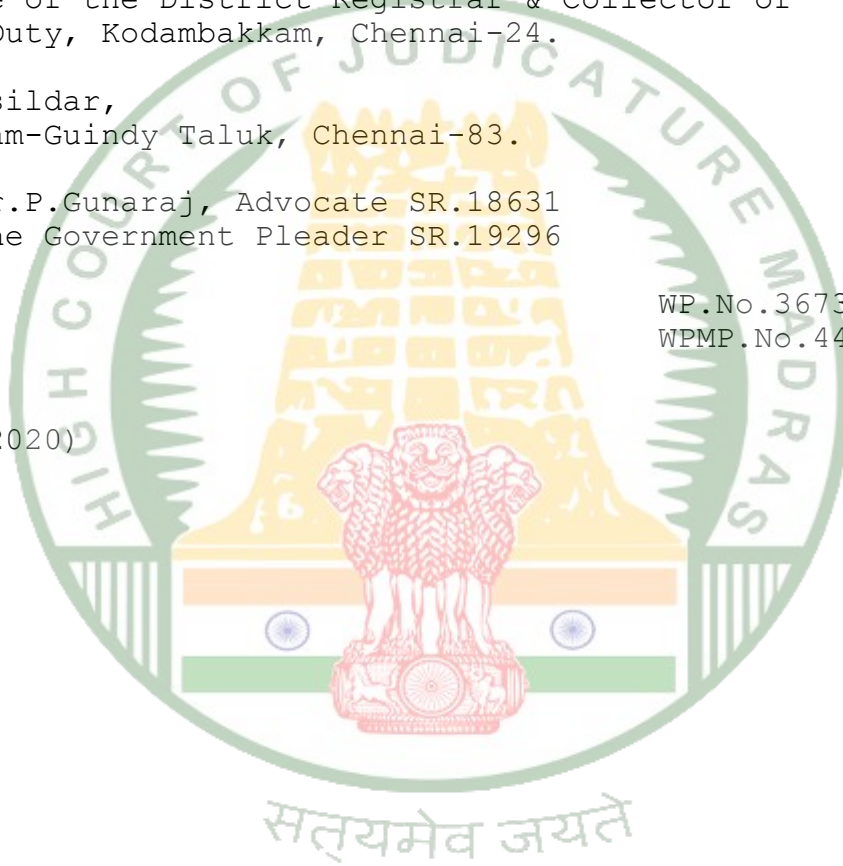
1.The Sub-Registrar at the
cadre of the District Registrar & Collector of
Stamp Duty, Kodambakkam, Chennai-24.

2.The Tahsildar,
Mambalam-Guindy Taluk, Chennai-83.

+1cc to Mr.P.Gunaraj, Advocate SR.18631
+1cc to the Government Pleader SR.19296

WP.No.36733 of 2004 &
WPMP.No.44100 of 2004

RSI (CO)
CB(19/06/2020)



WEB COPY