IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2020

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.5307,5309,5310,5313,5314,5316 & 5318 of 2020
and
WMP.Nos.6253,6255,6257,6260,6262,6264 & 6266 of 2020

Mr.Habib Abdul Latif ..Petitioner in all W.Ps

.v.

1.The Inspector General of Registration and Chief Controlling Revenue Authority under Indian Stamp Act,
No.100, Santhome High Road,
Chennai 600 028.

2.The District Revenue Officer(Stamps) and Collector, under Section 27-A of the Indian Stamp Act, 1899
M.Singaravelar Malaigai-5th Floor,
No.32, Rajaji Salai,
Chennai 600 001.

3.The Sub Registrar,
Ambattur,
Municipal Community Hall,
Gopalsamy Street,
Ram Nagar,
Chennai 600 053. ..Respondents in all W.Ps

Prayer in W.P.No.5307/2020:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the 2nd respondent in No.119/2003/A2 dated 22.03.2004, consequently subsequent proceedings of the 1st respondent Nos.37961/N1/2019 dated 0410.2019 & No.48346/N1/2019 dated 15.11.2019 and quash them by directing the 1st respondent to take the Statutory appeal dated 0909.2019 on file of the petitioner.

Prayer in W.P.No.5309/2020, 5310/2020, 5313/2020, 5314/2020, 5316/2020 and 5318/2020:

Writ Petition filed under article 226 of the Constitution of India praying to issue a Writ of Mandamus calling for the records of the 2nd Respondent in No. 129/2003/A2,130/2003/A2, 132/2003/A2, 134/2003/A2 dated 22.03.2004, 139/2003/A2 dated 25.03.2004, 27/2010 dated 05.08.2011 and consequently subsequent proceedings of the 1st Respondent Nos. 37962/N1/2019 dated 04.10.2019 No. 43843/N1/2019 dated 15.11.2019, Nos.37965/N1/2019 dated 04.10.2019 ad No. 43844/N1/2019 dated 15.11.2019, Nos. 37965/N1/2019 dated 04.10.2019 and 43979/N1/2019 dated 15.11.2019 No. 37966/N1/2019 dated 04.10.2019 and No. 43845/N1/2019 dated 15.11.2019 No. 37964/N1/2019 dated 04.10.2019 No. 43845/N1/2019 dated 15.11.2019 No. 43848/N1/2019 dated 18.11.2019 and quash them by directing the 1st Respondent to take the statutory appeal dated 09.09.2019, 10.09.2019 and 24.10.2019 on the file of the Petitioner.

For Petitioner : Mr.R.Gopinath
(for All WPs)
For Respondents : Mr.T.M.Pappiah
(for All WPs) Special Government Pleader

COMMON ORDER

All the above Writ Petitions have been filed challenging the order passed by the 1st respondent rejecting the appeal filed by the petitioners against the order passed by the District Registrar under Section 47A of the Indian Stamp Act, 1899.

2.The case of the petitioners is that they have purchased the properties and while presenting the document, it was found they have undervalued the property and therefore, proceedings under Section 47A(1) of the Indian Stamp Act, 1899, was initiated. The petitioners participated in the enquiry and submitted their objections. In all the cases, except W.P.No.5318/2020, the final orders were passed by the District Registrar in the year 2004. Insofar as W.P.No.5318/2020 is concerned, the final order was passed in the year 2011.

3.All the writ petitioners have filed an appeal before the 1st respondent in the year 2019. The 1st respondent has rejected all the appeals on the ground that there is an exorbitant delay in filing the appeal and that as per Section 47 A (5) r/w the relevant rules, the appeal will have to be filed within the two months from the date on which the District Registrar had passed the order. Aggrieved by the same, the present writ petitions have been filed before this Court.

4.The learned counsel for the petitioners submitted that the petitioners were not served with the final orders passed by the District Registrar and they became aware of the final orders only after they received the notice under the revenue recovery proceedings.

5.This Court directed the learned Special Government Pleader to furnish all the files in order to see if the petitioners were aware about the final orders passed by the District Registrar.

6.Going through the files, it is seen that the petitioners have been informed about the final orders immediately after the same was passed by the District Registrar. In fact, the petitioners have even sent representation to the effect that they are willing to pay the stamp duty under protest, without prejudice to their rights. These letters were written in the year 2008. It is therefore evident that the petitioners were aware about the final orders passed by the District Registrar and in spite of the same, they never chose to file the appeal on time and they approached the 1st respondent with an exorbitant delay after they received the notice under the revenue recovery proceedings.

7.At this juncture, it will be useful to rely upon the earlier order passed by this Court under similar circumstances in R.Duraisamy .vs. The District Registrar and Others in W.P.No.4600 of 2018 dated 19.09.2019. The relevant portions in the order is extracted hereunder:

> 5. It is the case of the petitioner that the respondent has not followed the procedure contemplated under Section 47 (A) of the Act. Hence, questioning of claiming interest for differential amount will not arise and the respondent cannot take recourse to recover the money under Revenue Recovery Act.
>
> 6. The third respondent had filed a counter, wherein it is stated that the petitioner purchased the property from one Ramasamy, under sale deed dated 08.02.2002 and the sale deed was registered as Document No.391 of 2002 on the file of Sub Registrar, Omalur. Since the petitioner paid lesser stamp duty to be than actual stamp duty, as per guideline value, the said document was referred to Special Tahsildar (Stamps) Sangagiri, under Section 47 A (1) of Indian Stamp Act, to determine the correct value of the property and the stamp duty to be recovered from the petitioner. Accordingly, deficit stamp duty amount was arrived and calculated as Rs.3,18,956/- along with deficit registration fees of Rs.26,580/- to be paid.

7. In the meanwhile, the Government announced Samadana Scheme in G.O.Ms.No.117, dated 26.09.2016 and as per the said G.O, the petitioner was informed by the second respondent through notice 28.10.2002 that 60% of the stamp duty and registration fee may be paid to get back the document and the said scheme will be in force till 29.11.2002. However, the petitioner failed to avail the scheme.

8. Later, the Special Deputy Collector (Stamps), Salem, initiated action against the petitioner, for recovery of deficit stamp duty and registration fee, by causing notice to the petitioner on 30.08.2011. The petitioner was informed that if he failed to pay deficit stamp duty and registration fee, action will be taken against him under Revenue Recovery Act. Again, on 23.04.2015, a notice was issued by the Special Tahsildar (Stamps), Sangagiri, to the petitioner calling upon him to remit a sum of Rs.2,74,692/-. However, the petitioner failed to pay the said amount. Again, the said Tahsildar issued notice on 14.03.2017 to the petitioner demanding payment of deficit stamp duty and registration fee. Challenging that notice, the petitioner has preferred the present writ petition, challenging the Revenue Recovery proceedings on untenable grounds suppressing the facts.

9. The specific case of the petitioner is that the Sub Registrar has not initiated any proceedings under Section 47 (A) of the Indian Stamp Act and the demand for payment of deficit stamp duty and deficit registration fee was unilaterally fixed by the respondents, without following the procedure. This contention of the petitioner appears to be not correct. It appears that the Sub Registrar, having found that there is undervaluation, referred the matter to his Higher Official viz., District Registrar. The Special Tahsildar (Stamps), Sangagiri who has determined the market value. It may be correct that the petitioner was not given adequate opportunity while ascertaining the market value during the said enquiry. Even if it is so, the petitioner had an opportunity of questioning the assessment when the samadan scheme given was offered to him by the second respondent as early as on 28.10.2002. For the reasons best known, the petitioner has not availed that opportunity.

> Thereafter, on several occasions viz., from 2002 to 2017, for nearly 15 years, the Department had caused notices to the petitioner, expecting him to come and pay the deficit stamp duty and deficit registration fee to get back his document. But he never availed those opportunities.
>
> 10. The contention of the petitioner is that the privilege given to the parties in G.O.No.117 is not applicable to the petitioner. It is his misplaced contention. G.O.No.117 was issued in order to arrive at amicable settlement between the executant and the department, wherever there was dispute regarding the valuation.
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> 11. This Court is unable to countenance the said fact. When the petitioner herein has presented the sale deed in the year 2002 and knowing fully that the document is withheld for deficit stamp duty, he has not taken any care to get back the document till filing of this Writ Petition, in the year 2018. He has not even preferred any representation to the concerned authorities regarding withholding of the document by the Registrar. Only after the coercive step for collecting deficit stamp duty under Revenue Recovery Act was initiated against him, and that too after the issuance of third notice, the petitioner has came with an idea of challenging that the procedures under Section 47 (A) of the Act has not followed and G.O.No.117 is not applicable to this case are baseless and untenable.
>
> 12. This Court has no other option, except to dismiss this Writ Petition. Having held so, the party who has presented the document, has to get back his title deed, provided he pays the deficit stamp duty and registration fee. Therefore if the petitioner intend to get back the document and want to avoid Revenue Recovery proceedings, an opportunity may be given to him to make a representation to the concerned authorities and on such representation the deficit stamp duty and registration charges may be collected and document be released condoning the delay.

8.In the present case, the learned Special Government Pleader has also circulated the tabulation of all the connected writ petitions, which gives the entire details regarding the date of enquiry, date of filing of objections, date of final orders etc. For easy reference, the same is extracted hereunder:

1	2	3	4	5	6	7	8	9	10	11	12	13
1	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
2	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
3	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
5	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
6	[illegible]	[illegible]	[illegible]	-	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
7	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		-	[illegible]	[illegible]	[illegible]

9.It is clear from the above that the petitioners are very much aware about the passing of the final orders and in spite of the same, they have chosen to file the appeal with an exorbitant delay and the 1st respondent has rightly rejected the appeal. The petitioners have approached this Court only to avoid the proceedings that has been initiated against them under the Revenue Recovery Act. The documents belonging to the petitioner is lying idle in the department for more than 15 years and the petitioners have not even cared to pay the stamp duty and collect the same. Therefore, the entire effort now is to somehow avoid the proceedings initiated under the Revenue Recovery Act. This Court is not able to find any merits in the case of the petitioners and this Court is also not able to find any illegality in the orders passed by the 1st respondent.

In the result, all the writ petitions are dismissed. No costs. Consequently, all the connected miscellaneous petitions are closed.

s/d-
Assistant Registrar(CS VIII)

True Copy

Sub-Assistant Registrar

KP
To

1. The Inspector General of Registration and
    Chief Controlling Revenue Authority under
    Indian Stamp Act,
   No.100, Santhome High Road,
   Chennai 600 028.

2. The District Revenue Officer(Stamps) and Collector,
   under Section 27-A of the Indian Stamp Act, 1899
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3. The Sub Registrar,
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   Municipal Community Hall,
   Gopalsamy Street,
   Ram Nagar,
   Chennai 600 053.

+1 CC to Mr.R.Gopinath, Advocate sr 19380.
+1 CC to Govt. Pleader sr 20207.

W.P.Nos.5307,5309,5310,5313,
5314,5316 & 5318/2020

SSV(CO)
SP(02/06/2020)