



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.Nos.24519 and 24520 of 2013

W.P.No.24519 of 2013 :-

R.Rajkumar

.. Petitioner

-vs-

1. Inspector General of Registration,
120, Santhome High Road,
Chennai-600 028.

2. District Registrar of Nilgiris,
Office of the District Registrar,
Ooty, Nilgiris.

3. The Joint Sub Registrar-1,
Office of the Joint Sub Registrar,
Ooty, Nilgiris.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to refund the sum of Rs.1,84,000/- paid by the petitioner under protest on 14.06.2013 pursuant to the demand of the third respondent in its communication dated 20.03.2013 within a time to be fixed by this Court.

W.P.No.24520 of 2013 :-

S.Arunprakash

.. Petitioner

-vs-

1. Inspector General of Registration,
120, Santhome High Road,
Chennai-600 028.

2. District Registrar of Nilgiris,
Office of the District Registrar,
Ootacamund, Nilgiris.



3. The Joint Sub Registrar-1,
Office of the Joint Sub Registrar,
Ootacamund, Nilgiris.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus, directing the respondents to refund the sum of Rs.1,20,000/- paid by the petitioner under protest on 14.06.2013 pursuant to the demand of the third respondent in its communication dated 20.03.2013 within a time to be fixed by this Court.

For Petitioners (In both W.Ps.)	:	Mr.S.Sabarish for Mr.S.K.Rakhunathan
For Respondents (In both W.Ps.)	:	Mr.P.P.Purushothaman, Government Advocate

COMMON ORDER

Heard Ms.S.Sabarish, learned counsel for Mr.S.K.Rakhunathan, learned counsel for the petitioners and Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents.

2.The petitioners in both the writ petitions seek for an identical relief inasmuch as they seek for refund of excess stamp duty paid by them for the purpose of releasing two documents registered as Document P.Nos.16/2013 and 17/2013 on the file of the third respondent.

3.The case to be adjudicated is whether, the document is a single transaction or two transactions. It appears that the third respondent opined that there are two distinct transactions, one transaction is a sale and the other is a gift. The third respondent has maintained a stand stating that there are two distinct transactions, so stamp duty has to be paid, accordingly.

4.The petitioners owing to urgency have remitted the amount under protest with liberty to agitate the matter. Thereafter, the petitioners have submitted representations to the second respondent, also sent legal notice, but no action has been initiated. Therefore, the petitioners submitted representations to the first respondent on 22.06.2013 through their counsel. The first respondent by order dated 11.07.2013, has directed the second respondent to adjudicate the matter and find out as to whether the levy of stamp duty treating the documents as two transactions is just and proper. Though such a direction was issued by the first respondent, till date nothing has happened.



5. In these writ petitions, the petitioners have prayed for refund of the excess stamp duty remitted by them, which is stated to be paid under protest and with objections. However, what is required to be done is an adjudication into the facts to ascertain as to whether the document is a single transaction or two transactions, which cannot be done in a writ petition. Therefore, essentially the matter has to be decided by the second respondent. Therefore, considering the peculiar facts and circumstances of the case, there will be a direction to the second respondent to issue notice to the petitioners and adjudicate the matter as to why the transaction should not be treated as a single transaction. After affording an opportunity of personal hearing to the petitioners, a speaking order be passed by the second respondent on merits and in accordance with law. The above direction be complied with within a period of four months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

abr

To

1. The Inspector General of Registration,
120, Santhome High Road,
Chennai-600 028.
2. The District Registrar of Nilgiris,
Office of the District Registrar,
Ooty, Nilgiris.
3. The Joint Sub Registrar-1,
Office of the Joint Sub Registrar,
Ooty, Nilgiris.

+2cc to Mr.S.K.Rakhunathan, Advocate, S.R.No.22773
+2cc to the Government Pleader, S.R.No.23666, 23667

W.P.Nos.24519 & 24520 of 2013

VSNII (CO)
CS/08/07/2020