

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28074 of 2012
and M.P.No.1 of 2012

1.Mr.Puneet Gupta
2.Mr.Sawan Gupta

.. Petitioners

-vs-

1. The Inspector General of Registration,
O/o.The Inspector General of Registration,
No.120, Santhome High Road, Chennai-600 028.

2. The District Revenue Officer (Stamps)
(Special Tahsildar Stamps),
District Collector Office,
5th Floor, 'Singaravelar Maligai',
No.32, Rajaji Salai, Chennai-600 001.

3. The Sub Registrar,
The District Registrar's Office,
Chennai - Central.

.. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the order dated 20.06.2012, passed by the 1st respondent in Pa.Mu.No.29154/N5/2008 and quash the portion of the order, i.e., directing the District Registrar (Administration), Chennai South to initiate proceedings under Article 33A of the Indian Stamp Act against the petitioners.

For Petitioners : Mr.George Cheriyan

For Respondents : Mr.P.P.Purushothaman,
Government Advocate

ORDER

Heard Mr.George Cheriyan, learned counsel for the petitioners and Mr.P.P.Purushothaman, learned Government Advocate appearing for the respondents.

2.The petitioners have filed this writ petition challenging the orders passed by the first respondent dated 20.06.2012.

3.The first respondent, by the impugned order, has directed the District Registrar to initiate proceedings under Section 33-A of the Indian Stamp Act, 1899 (hereinafter referred to as "the Act").

4.The petitioners are beneficiaries of a gift executed by their grandmother Tmt.Sheela Devi, W/o.Mr.S.R.Gupta in Paimash Nos.214, 215, 215A, 216 and 217, Survey No.115, T.S.No.149/1, Block No.1, situated at No.121, Poonamallee Road, Ekkaduthangal, Mambalam - Guindy Taluk. The document was accepted for registration by the third respondent and stamp duty applicable as per Article 58 of Schedule I was collected and the document was registered and released to the petitioners. During November, 2008, a notice was sent by the second respondent under Section 47-A(3) of the Act. The second respondent by order dated 22.05.2008, directed the petitioners to pay a sum of Rs.2,19,452/- being the deficit stamp duty.

5.Aggrieved by the same, the petitioners preferred appeal to the first respondent under Section 47(5) of the Act stating that there was no case for demanding additional stamp duty, as there is nothing to indicate that the correct market value of the property was not truly set forth in the document.

6.The first respondent after hearing the matter, came to the conclusion that the order passed by the second respondent is incorrect, but however, issued a direction under Section 33-A of the Act to the District Registrar to initiate action. The correctness of this, is questioned in this writ petition.

7.Firstly, the petitioners cannot be placed in a worst situation in their own appeal petition, which has challenged the order passed by the second respondent. The question whether, a direction can be issued under Section 33-A of the Act was never the lis, which was pending before the first respondent. Therefore, such an order could not have been issued.

8.One more ground on which the impugned order is held to be illegal is on account of the fact that it has been passed beyond the period of limitation as prescribed under Section 33-A of the Act, which is only three years and the order was passed after 11 years on 20.06.2012. Therefore, the impugned proceedings are

wholly illegal. For such reason, the writ petition is allowed as prayed for and the impugned order is quashed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

abr

To

1. The Inspector General of Registration,
O/o.The Inspector General of Registration,
No.120, Santhome High Road,
Chennai-600 028.
2. The District Revenue Officer (Stamps)
(Special Tahsildar Stamps),
District Collector Office,
5th Floor, 'Singaravellar Maligai',
No.32, Rajaji Salai, Chennai-600 001.
3. The Sub Registrar,
The District Registrar's Office,
Chennai - Central.

+1cc to Government Pleader, S.R.No.22651

सत्यमेव जयते

W.P.No.28074 of 2012

NR(CO)
KKV/12/06/2020

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