

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.07.2020

CORAM :

THE HON'BLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.8309 of 2020

M/s. Investin Homes
Rep. by its Partner Mr.C.Rajasekar
Having office at Flat F3,CCC Towers,
No.12, Ramagiri Nagar, Taramani Link Road,
Velachery, Chennai - 600042. ... Petitioner

Vs.

1. The District Registrar (Audit)
Chengalpet District.
2. The Sub Registrar,
Thiruporur. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records with respect to letter dated 10.03.2017 of the second respondent caused due to the Audit Objections of the 1st respondent, pertaining to the petitioner's property registered as document No.15552/2014 and 18489/2014 at the office of the second respondent and to quash the same as illegal and consequently direct the second respondent to withdraw the attachment of the petitioner's property.

For Petitioner : M/s.Jayasudha

For Respondents : Mr.T.M.Pappiah
Special Government Pleader

O R D E R

(The case has been heard through video conference)

This writ petition has been filed challenging the impugned letter issued by the second respondent dated 10.03.2017 based on an Audit Objection.

2. The case of the petitioner is that the petitioner had purchased a property in the year 2014 and the same was registered on the file of the second respondent. Initially, the sale deed dated 24.10.2014 reveals the fact that the petitioner had purchased an extent of 2,300 sq.ft.

3. The petitioner found that the total extent of the property is actually 3,579 sq.ft., and therefore, a rectification deed came to be executed on 23.12.2014. This was registered on the file of the second respondent.

4. The petitioner received a notice from the second respondent wherein, the petitioner has been directed to pay the deficit stamp duty of Rs.1,58,348/- and deficit registration fee of a sum of Rs.36,800/-. This notice came to be issued due to an Audit Objection raised by the first respondent.

5. The grievance of the petitioner is that this notice was issued without even giving an opportunity to the petitioner to putforth his case. The other ground that has been taken by the petitioner is that the second respondent had only taken into consideration the rectification deed and the original sale deed dated 24.10.2014, was not taken into consideration. Therefore, according to the petitioner, if an opportunity had been given, the petitioner could have explained that there was no deficit stamp duty and registration charges. Pursuant to the impugned notice issued by the second respondent, proceedings are initiated to recover the deficit stamp duty and the registration charges and it is reflected in the encumbrance certificate as a result of which, the petitioner is not in a position to deal with the property.

6. Heard the learned counsel for the petitioner and the learned Special Government Pleader for the respondents.

7. In the considered view of this Court, the petitioner has taken a specific stand that the respondents have not taken into consideration the stamp duty and registration charges paid when the sale deed was originally registered on 24.10.2014 and that only the rectification deed was taken into consideration. The second respondent should have got a clarification in this regard from the petitioner before issuing the impugned notice.

8. In view of the above, the impugned notice issued by the second respondent dated 10.03.2017 shall be construed as a show cause notice and the petitioner is directed to submit their explanation for the same along with all relevant documents, within a period of two weeks from today. The second respondent immediately on receipt of the explanation from the petitioner shall pass an appropriate orders within a period of four weeks thereafter.

9. This Writ Petition is disposed of, with the above directions. No costs.

Sd/-
Assistant Registrar(CS-III)

//True copy//

Sub Assistant Registrar

sni

To

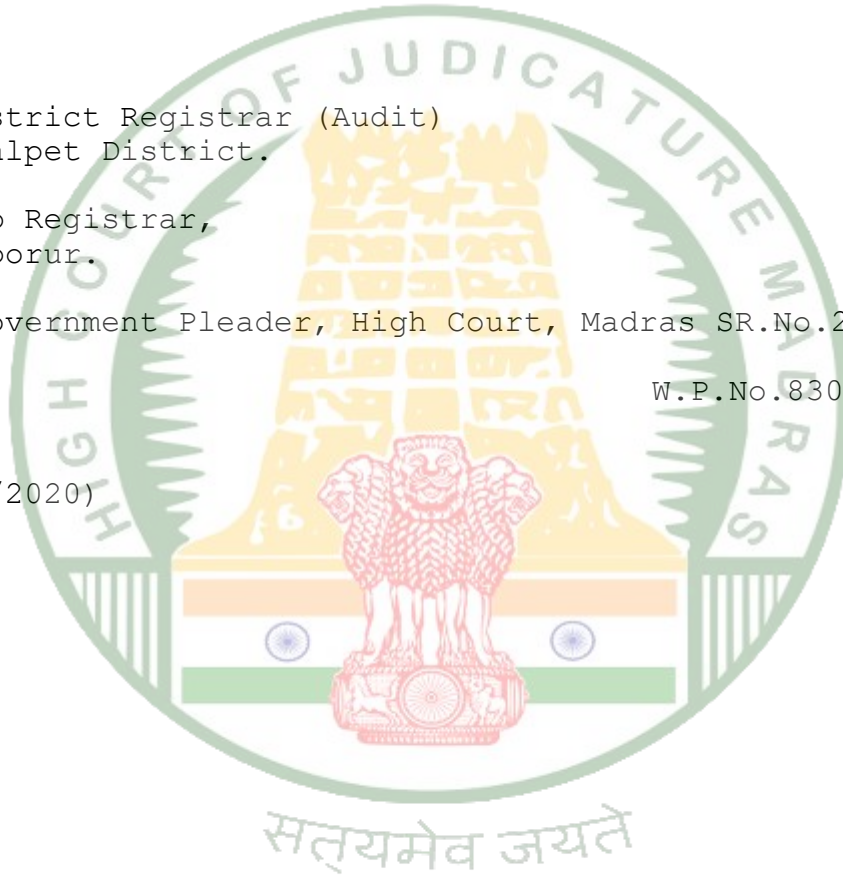
1. The District Registrar (Audit)
Chengalpet District.

2. The Sub Registrar,
Thiruporur.

+1cc to Government Pleader, High Court, Madras SR.No.25280

W.P.No.8309 of 2020

MP (CO)
GMY (03/08/2020)



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