IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.02.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No.651 of 2021
and WMP. No.714 of 2021

U.Murugesan ... Petitioner

Vs

1.The Special Deputy Collector - Stamps
Collectorate
Thanjavur.

2.The Sub Registrar
Mannargudi
Tiruvarur District. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent in Tha.Pa.52/2020 dated 10.08.2020 and quash the same as illegal, arbitrary against the provisions of the Act and also against the principles of natural justice.

For Petitioner : Mr.K.Soundara Rajan

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

ORDER

The grievance of the petitioner is that a certain sale deed which the petitioner has obtained on 27.01.2020 was registered by the Sub Registrar, Mannargudi in Doc.No.1/287/2020. However, that document was not released, instead a check-slip was raised for payment of deficit stamp duty.

2. Subsequently, the petitioner was served with the SMS of the first respondent dated 10.08.2020, and an email dated 18.09.2020, directing the petitioner to pay a deficit stamp duty of Rs.1,14,302/-.

3. The petitioner would now respond to this communication, Vide letter dated 19.09.2020, which he sent by RPAD to the extent that notices of the respondents 1 and 2 have not been served on him and that he was not heard in the matter before determining the alleged deficit stamp duty payable by him.

4. The averments in the affidavit filed in support of the petition would further go to show that whether the first

respondent have issued the notice dated 10.08.2020 for the appearance of the petitioner before him at 10.00 a.m., but the said notice reached him two months later. Indeed, even the said notice is dated on the very date, on which the enquiry was proposed. If these facts were true, then what is attempted is a fraud on the statute, and attempted fraud on the right of the citizen of the country.

5. Mr.T.M.Pappiah, learned Special Government Pleader takes notice for the respondents and made one submission that since the first respondent is the Special Deputy Collector, Stamps, no jurisdiction rests with this Court. The local jurisdiction will fall within the Madurai Bench of this Court.

6. The learned counsel for the petitioner would now interject to submit that part of the cause of action has arisen at the office of the second respondent which is at Tiruvarur, over which the Principal Seat has territorial jurisdiction.

7. This Court finds that part of cause of action has arisen at Tiruvarur District, over which this Court has jurisdiction. Turning to the merit of the case, the petitioner's fundamental objection has been that before embarking to determine the deficit stamp duty under Section 47-A of the Stamp Act. The procedure contemplated has not been complied with such as issuing the Form-I notice followed by Form-II notice by the officials herein, which the petitioner is entitled to.

8. Mr.T.M.Pappiah, learned Special Government Pleader made a statement on instructions that by inadvertence the first respondent has omitted to follow the procedure. The said statement of the learned Special Government Pleader is recorded.

9. The consequence is now well written on the wall. This Court necessarily have to set aside the impugned proceedings of the first respondent in Tha.Pa.52/2020 dated 10.08.2020, and the matter is remitted back to the first respondent, and that the first respondent is now required to decide the issue strictly after complying with all the statutory procedures.

10. In the result, the writ petition is allowed in the manner indicated. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar


ds

To:
1.The Special Deputy Collector - Stamps
Collectorate
Thanjavur.

2.The Sub Registrar
Mannargudi
Tiruvarur District.

+1cc to M/s.K.Soundarajan, Advocate SR.7578
+1cc to the Government Pleader SR.7880

W.P.Nos.651 of 2021

SMI(CO)
CB(09/03/2021)