IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2021

CORAM

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.NOS.10970 & 10971 OF 2012

W.P.NO.10970 OF 2012

Noorjahan ... Petitioner

.Vs.

1. The Inspector General of Registration,
   Santhome,
   Chennai - 600 005.

2. The Joint Registrar No.I,
   Office of District Registrar,
   Coimbatore.

3. S.Manikandan ... Respondents

W.P.NO.10971 OF 2012

Noorjahan ... Petitioner

.Vs.

1. The Inspector General of Registration,
   Santhome,
   Chennai - 600 005.

2. The Joint Registrar No.I,
   Office of District Registrar,
   Coimbatore.

3.Preetha ... Respondents

Prayer in W.P.No.10970 of 2012:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the petitioner is liable to pay stamp duty of 50/- only for deed of cancellation dated 02.04.2012, registered as document No.2226 of 2012 as per Article 17 of Indian Stamp Act, 1899 and consequently, direct the second respondent to release the deed of cancellation dated 02.04.2012 registered as document No.2226 of 2012.

Prayer in W.P.No.10971 of 2012:-

Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the petitioner is liable to pay stamp duty of 50/- only for deed of cancellation dated 02.04.2012, registered as document No.2224 of 2012 as per Article 17 of Indian Stamp Act, 1899 and consequently, direct the second respondent to release the deed of cancellation dated 02.04.2012 registered as document No.2224 of 2012.

In W.P.No.10970 of 2012

For Petitioner : Mr.A.S.Thambuswamy

For R1 & R2 : Mr.Richardson Wilson, Government Advocate

For R3 : Mr.B.Anand

In W.P.No.10971 of 2012

For Petitioner : Mr.A.S.Thambuswamy

For R1 & R2 : Mr.Richardson Wilson, Government Advocate

COMMON ORDER

These Writ Petitions have been filed to issue a writ of declaration, declaring that the petitioner is liable to pay stamp duty of 50/- only for deed of cancellation dated 02.04.2012, registered as document Nos.2224 & 2226 of 2012 as per Article 17 of Indian Stamp Act, 1899 and consequently, direct the second respondent to release the deed of cancellation.

2. The petitioner inherited the subject properties to an extent of 4.36 acres along with 30 other legal heirs through Pothanur Jamat, a partition was effected on 02.11.2005 and accordingly the petitioner was alloted 20.44 cents. To deal with the said property, the petitioner executed a power of attorney in favour of one K.Dharmaraj. Likewise, the other share holders also appointed the power agents to deal with their

respective shares. They formed a layout of the entire extent of 4.36 acres and obtained approval of the said layout. On the strength of Power of Attorney, they also executed a sale deeds in favour of various third parties. In the sale deeds the boundaries of the plots were not described. That apart, the subsequent power agents also sold the very same plots with different boundaries.

3. On verification, the petitioner found that there is no approval for layout for the lands comprised in Survey No.510. Therefore, the petitioner and the third respondent decided to cancel the sale deed, which was executed by the power agent in favour of the third respondent. They executed a deed of cancellation dated 02.04.2012 and presented the same before the second respondent for registration. However, they had taken back the documents, while the second respondent directed to pay proper stamp duty on the value of the land. That apart, the petitioner filed writ petitions for declaration declaring that he is liable to pay the stamp duty of Rs.50/- only for the deed of cancellation and the same was registered as document Nos.2224 & 2226 of 2012.

4. When the second respondent was about to refer the matter before the District Registrar under Section 47 of the Stamp Act, the petitioner filed these writ petitions for declaration, declaring that the petitioner is liable to pay stamp duty of Rs.50/- for deed of cancellation.

5. The prayer itself is not maintainable. Since the second respondent is the authority concern to fix the stamp duty on the value of the property, which is subjected for deed of cancellation. Even before the second respondent could pass an order, these writ petitions have been filed by the petitioner. Therefore, these writ petitions are premature and the said prayer cannot be maintained.

6. In view of the above, these writ petitions are stands dismissed as devoid of merits. However, if any order is passed by the second respondent under Section 47A of Stamp Act, the petitioner is at liberty to file an appeal in the manner known to law, if, he is so advised.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector General of Registration,
   Santhome,
   Chennai - 600 005.

2. The Joint Registrar No.I,
   Office of District Registrar,
   Coimbatore.

+1cc to Mr.B.Anand, Advocate, S.R.No.38504
+1cc to the Government Pleader, S.R.No.38843

W.P.NOS.10970 & 10971 OF 2012

SSV(CO)
PBS/15/09/2021