IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.08.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.Nos.11346 and 11349 of 2013
and
MP.Nos.1 & 2 and 1 & 2 of 2013

M.Vimal Chand ... Petitioner in both W.Ps.

Vs.

1.The Special Deputy Collector (Stamps),
Vellore & Thiruvannamalai Districts,
Collectorate, Sathuvachari,
Vellore – 632 009.

2.The Sub-Registrar,
Ambur 635 802,
Vellore District. ... Respondents in both W.Ps.

PRAYER: Writ Petitions filed under Article 226 of Constitution of India, seeking Writ of Certiorarified Mandamus, calling for the records of the 1st Respondent in C.P.Nos.1568 and 1569 of 2008 and to quash the Recovery Notices therein served on the petitioner on 28.09.2012 and to consequently direct the respondents to forbear from levying, demanding or claiming the alleged arrears of Stamp Duty and interest pending determination of the market value of lands being the subject matter of the Registered Sale Deeds dated 15.07.2008 Document Nos.4345and 4344 of 2008 respectively, on the file of 2nd respondent, in accordance with law.

(in both W.Ps.)
For Petitioner : Mr.T.M.Hariharan

For Respondents : Mr.M.R.Gokulkrishnan

COMMON ORDER

The writ petitions have been filed seeking Certiorarified Mandamus, calling for the records of the 1st Respondent in C.P.Nos.1568 and 1569 of 2008 and to quash the Recovery Notices therein served on the petitioner on 28.09.2012 and to consequently direct the respondents to forbear from levying, demanding or claiming the alleged arrears of Stamp Duty and interest pending determination of the market value of lands being the subject matter of the Registered Sale Deeds dated 15.07.2008 in Document No.4345 and 4344 of 2008 respectively on the file of 2nd respondent.

2.The petitioner and the prayer sought for in both the writ petitions are one and the same, hence both the writ petitions are taken up together for a common disposal.

3.The petitioner purchased agricultural lands through two registered sale deeds dated 15.07.2008 and presented for registration before the second respondent. The second respondent registered the same by Document Nos.4345 and 4344 of 2008. Thereafter, by proceedings dated 28.09.2012 in reference Nos.242 and 241 of 2008 referred the matter before the first respondent under Section 47A(1) of the Indian Stamp Act (hereinafter referred to as “the Act”). The first respondent initiated proceedings in C.P.No.1568 and 1569 of 2008 dated 25.08.2008 issued Form-I notice under the Tamil Nadu Stamp (Prevention of under Valuation of Insturments) Rules (hereinafter referred to as “the Rules”). It was duly received by the petitioner and had sent detailed objections dated 12.09.2008 to the first respondent. The defence taken by the petitioner is that the lands in question are agricultural lands and the area now falls within the extended town limits and as suh it cannot be a ground to value the lands as town house site. It was also duly received by the first respondent. Thereafter, there was no communication from the first resondent for enquiry as contemplated under Sub-section (2) of 47-A of the Act. At that juncture, the first respondent passed impugned orders dated 28.09.2012, directed the petitioner to remit the deficit stamp duty.

4.The learned counsel for the petitioner would submit that if the first respondent issued notice under Form-I dated 25.08.2008 and after receipt of the objections dated 12.09.2008, failed to conduct any enquiry and failed to give any opportunity of being heard before passing the impugned orders. The learned counsel further submitted that first respondent also failed to isssue any notice under Form-II as contemplated under Rule 6 and also failed to pass final orders as contemplated under Rule 7 determining the market value in accordance with law.

5.Heard the learned counsel on either side and perused the materials on record.

6.The first respondent filed a counter, which reveals that the petitioner responded to the show cause notice and he has not chosen to remit the deficit stamp duty. Therefore, no enquiry was conducted as contemplated under sub-section(2) of the Act. That apart, the first respondent also failed to serve any notice under Form-II as contemplated under Rule 6 of the Rules. The first respondent also failed to pass final orders as contemplaced under Rule 7 determining the market value in accordance with law. That apart, the impugned orders were not passed by following any of the provisions as contemplated under the Act. Therefore, it is clear violation of principles of natural justice and the impugned orders cannot be sustained and it is liable to be set aside.

7.In view of the above, both the impugned orders dated 28.09.2012 in C.P.Nos.1568 and 1569 of 2008 are set aside. Accordingly, the writ petitions are allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Special Deputy Collector (Stamps),
Vellore & Thiruvannamalai Districts,
Collectorate, Sathuvachari,
Vellore – 632 009.

2.The Sub-Registrar,
Ambur 635 802,
Vellore District.

+2cc to Mr.T.M.Hariharan, Advocate, S.R.No.43226
+1cc to the Government Pleader, S.R.No.43404

W.P.Nos.11346 and 11349 of 2013

SSI(CO)
SB(27/09/2021)