



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM

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

W.P.No.12037 of 2012

1.Fathima Bi
2.Noorjahan

... Petitioners

-vs-

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

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

3.N.Duraisamy

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of declaration declaring that the petitioners are liable to pay stamp duty of Rs.50/- only for Deed of Cancellation dated 30.03.2012, registered as Document No.2364 of 2012 as per Article 17 of Indian Stamp Act, 1899 and consequently, direct the Second Respondent to release the Deed of Cancellation dated 30.03.2012 registered as Document No.2364 of 2012.

For Petitioners : Mr.A.S.Thambuswamy
For Respondents : Mr.Richardson Wilson,
1 and 2 Government Advocate
For Respondent 3 : Mr.B.Anand

O R D E R

This Writ Petition is filed to issue a writ of declaration declaring that the petitioners are liable to pay stamp duty of Rs.50/- only for Deed of Cancellation dated 30.03.2012, registered as Document No.2364 of 2012 as per Article 17 of Indian Stamp Act, 1899 and consequently, direct the Second Respondent to release the Deed of Cancellation dated 30.03.2012 registered as Document No.2364 of 2012.

2. The petitioners inherited the subject properties to an extent of 4.36 acres along with 30 other legal heirs through Jaharabibi. To deal with the said property, the petitioners



executed a power of attorney in favour of one M.Radhika. 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. The sale deeds did not described the boundaries of the plots. That apart, the subsequent power agents also sold the very same plots with different boundaries.

3. On verification, the petitioners found that there is no approval for layout for the lands comprised in Survey No.510. Therefore, the petitioners 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 30.03.2012 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 petitioners filed writ petition for declaration declaring that they are liable to pay the stamp duty of Rs.50/- only for the deed of cancellation and the same was registered as Document No.2364 of 2012.

4. When the second respondent about to refer the matter before the District Registrar under Section 47 of the Stamp Act, the petitioners filed this writ petition for declaration, declaring that the petitioners are liable to pay stamp duty of Rs.50/- for deed of cancellation. 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 prior to pass any order by the second respondent, this writ petition has been filed by the petitioners. Therefore, this writ petition is premature and the said prayer cannot be maintained.

5. In view of the above, this writ petition is dismissed as devoid of merits. Therefore, this writ petition stands dismissed. However, any order 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 so advised. There shall be no order as to costs.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

rna



To

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

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

+1cc to Mr.B.Anand, Advocate, S.R.No.40274

+1cc to the Government Pleader, S.R.No. 40713

W.P.No.12037 of 2012

BR(CO)
GN(20/09/2021)