IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.03.2021

CORAM

THE HONOURABLE Mr. JUSTICE S.S.SUNDAR

WP.Nos.11875 & 11894/2011

1.D.Nirmala
2.M.Anitha
3.L.Sangeetha .. Petitioners in WP.No.11875/2011

1.V.Dilipkumar
2.V.Manojkumar
3.V.Lalithkumar .. Petitioners in WP.No.11894/2011

Versus

1.The Special District Collector [Stamps]
Vellore & Tiruvannamalai Districts
Collectorate, Sathuvachari
Vellore 632 009.

2.The Sub Registrar
Ambur 635 802
Vellore District. .. Respondents in both Petitions

Prayer in WP.No.11874/2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari calling for the records of the 1st respondent in KMK No.449/97, Ambur and to quash the notice in Form I dated --.12.1997 issued therein.

Prayer in WP.No.11895/2011: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari calling for the records of the 1st respondent in KMK No.438/97, Ambur and to quash the notice in Form I dated 19.12.1997 issued therein.

For Petitioners in both Petitions : Mr.T.M.Hariharan

For Respondents in both Petitions : Mr.T.M.Pappiah, Spl.GP

COMMON ORDER

(1) Since the issue involved in the above writ petitions is one and the same, both the writ petitions are taken up together for hearing and are disposed of by this common order.

(2) WP.No.11875/2011 is filed by the petitioners for issuance of a writ of certiorari to quash the impugned notice in Form-1 dated Nil stated to have been issued in December 1997. The impugned notice in this writ petition is in Form-1 inviting the writ

petitioners for an enquiry to determine the market value of the property conveyed under a Sale Deed dated 14.11.1997 vide Document No.2814/1997. It is also indicated in the impugned notice that a sum of Rs.7,93,806/- is determined as deficit stamp duty for the document of sale vide Doc.No.2814/1997 dated 14.11.1997.

(3) WP.No.11875/2011 is filed by three ladies whose respective husbands are the petitioners in WP.No.11875/2011 for issuance of a writ of certiorari to quash the impugned notice issued in Form-1 dated 19.12.1997 in respect of a document vide Doc.No.2725/1997 dated 07.11.1997. The impugned notices in these writ petitions are sent by the Special Deputy Collector [Stamps].

(4) Both the notices impugned in the writ petitions are accompanied by a working sheet prepared by the Sub Registrar of Ambur, indicating that a sum of Rs.7,93,806/- and a similar sum is assessed as deficit stamp duty payable by the respective writ petitioners with reference to two independent documents, namely,

Doc.Nos.2814/1997 dated 14.11.1997 and 2725/1997 dated 07.11.1997.

(5) As indicated above, the petitioners in WP.No.11894/2011 are the sons of one Mr.M.Vimal Chand. Whereas the petitioners in WP.No.11875/2011 are the respective wifes of the petitioners in WP.No.11894/2011.

(6) It is the common case of the petitioners in both the writ petitions that the petitioners have purchased contiguous properties from one Savithiri Ammal under the two different registered Sale Deeds dated 07.11.1997 and 14.11.1997. An extent of 3.50 acres in S.No.586 [part] and 587[part] in Ambur is the subject matter of conveyance dated 14.11.1997. From the documents, same extent of lands is same survey number have been acquired by the petitioners in the respective writ petitions under two different Sale Deeds for the same consideration.

(7) It is also the case the petitioners that the impugned notices though were issued in Form-1 under the Tamil Nadu Stamps [Prevention of Undervaluation of Instruments] Rules, 1968, during December

1997, no further notices were issued to the petitioners thereafter. It is the further case of the petitioners that no spot inspection or enquiry was conducted pursuant to the impugned notices and no provisional order is passed fixing the quantum as deficit stamp duty in the manner known to law. Since the original documents were not released to the petitioners, it appears that the petitioners independently sent representations to the respondents seeking return of the original Sale Deeds which are registered as Document Nos.2814/1997 and 2725/1997. Since the documents were not returned despite notice and there was no response, the petitioners earlier filed WP.Nos.5637/2010 and 5229/2010. It appears that both the writ petitions were disposed of by orders dated 22.03.2010 and 17.03.2010 respectively, directing the respondents to return the original Sale Deeds. Even though the Sale Deeds were registered in the year 1997 and notices under Form-1 were issued in December 1997, the grievance of the petitioners is that no further proceedings went on and therefore, the proceedings initiated by the 1st respondent is liable to be quashed. The main ground on which the writ petitions are filed is that the 1st respondent cannot keep the proceedings pending for decades and therefore, the proceedings are liable to be quashed.

(8) The petitioners have raised a few grounds on merits of the petitioners' claim and how the petitioners are sought to be be held liable to pay the imaginary amount of nearly Rs.8 lakhs by way of deficit stamp duty. Stating that the inaction on the part of the 1st respondent is not explained and that the 1st respondent has no lawful authority to initiate fresh proceedings after a period of four years from the date of presentation of documents, it is submitted that the petitioners who are put to mental agony and hardships are to be compensated. It is further stated that the petitioners would be put to much hardship on account of delay and that the petitioners would be in a great disadvantageous position if they were to contest the matter on the issue of deficit stamp duty on merits after this length of time. It is pointed out that the petitioners have appeared and submitted representations long back but no order is passed.

(9) Unfortunately, no counter affidavit is filed even though these writ petitions are pending from the year 2011. Therefore, the only question to be considered by this Court is whether the proceedings initiated for undervaluation of the Sale Deeds which are subject matter of these two writ petitions, can be allowed to be continued after this length of time.

(10) The learned counsel for the petitioners submitted that there is a specific statutory limitation for initiating action under Section 47[A][1] of the Indian Stamp Act and that the respondents who have not completed proceedings for more than two decades, cannot be allowed to continue the proceedings to the prejudice of the petitioners.

(11) The petitioners earlier have given representations to the respondents and pointed out that the respondents had not passed any order. The fact is that the proceedings under Section 47[A] of the Indian Stamp Act cannot be initiated after a period of five years.

(12) The impugned notices are notices purported to have been issued in Form-1 under Section 47[A][1] and [3] of the Indian Stamp Act. Even though the provision is not properly mentioned in the impugned notices, this Court taking into consideration the relevant facts it can be inferred that impugned notices are notices under Section 47[A][3] of the Indian Stamp Act.

(13) The impugned notices are communicated to the respondents along with the working sheet that was prepared by the Sub Registrar, namely the 2nd respondent herein. There must be a subjective satisfaction of the 1st respondent while passing order under sub-section [3] of Section 47[A] of the Indian Stamp Act. Except the working sheet signed by the Sub Registrar, the impugned notices do not refer to any other documents. From the working sheet, the tentative value was on the basis of the guideline at Rs.45/- per square feet.

(14) The petitioners have specifically stated that they have given reply by referring to the facts which are necessary. In the said circumstances, this Court is unable to find any justification for

the proceedings initiated under Section 47[A] to be on hold for several decades. The delay in concluding the proceedings under Section 47[A] will also put the purchaser in a precarious position and he may not be in a position to defend such proceedings after twenty years and therefore, this Court is of the view that the proceedings though were initiated by issuing a show cause notice or a notice before a provisional order is passed, pendency of the same for more than two decades vitiate the proceedings.

(15) Hence, the writ petitions are **allowed** and the impugned notices issued by the 1st respondent are set aside. No costs.

18.03.2021

AP
Internet : Yes

To

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Vellore 632 009.

2.The Sub Registrar
Ambur 635 802
Vellore District.

S.S.SUNDAR, J.,

AP

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