IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM : JUSTICE N.SESHASAYEE

W.P.No..4478 of 2021

Saraswathy ... Petitioner

Vs.

1.The Inspector General of Registration
No.120, Santhome High Road
Santhome, Chennai - 600 028.

2.The Sub-Registrar Poonamallee
Poonamallee, Chennai - 600 056.

3.The Chennai Metropolitan Development Authority
Rep. by its Member Secretary
Thalamuthu Natarajan Building
No.1, Gandhi Irwin Road
Egmore, Chennai - 600 008.

4.The Commissioner
Block Development Officer
Poonamallee, Chennai - 600 056. ... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus to direct the respondents to remove the entries in the Encumbrance Certificate in respect of Survey No.45/1, Agaramel Village, Poonamallee Taluk, with regard to the audit objection claiming deficit stamp duty and deficit registration charge in respect of gift deed registered as Document No.2491 of 2014 on the file of SRO, Poonamallee.

For Petitioner : Mr.A.E.Ravichandran

For Respondents: Mr.T.M.Pappiah
Special Government Pleader [R1, R2]
Mr.P.P.Purushothaman [R4]

ORDER

Mr.T.M.Pappiah, learned Special Government Pleader takes notice for respondents 1 and 2, and Mr.P.P.Purushothaman, learned counsel for the fourth respondent.

2. The short question is that the gift deed registered as document Nos. 2491 of 2014 with the second respondent has been questioned during internal audit and Audit Check slip has been raised alleging that there has been deficit stamp duty as well as registration which led to a revenue loss of Rs.1,74,430/-.

The petitioner states that the Audit Slip has been entered in Book-1, intended for recording the encumbrance.

3. Mr.T.M.Pappiah, learned Special Government Pleader made a statement on instruction in line with the impugned proceedings.

4. This Court is satisfied that if at all there is any design to evade stamp duty, the authority can well invoke Section 47-A of the Stamp Act, if it can be invoked. When there is a procedure contemplated for realising any deficit stamp duty that prevails over any audit objection. The audit objection is only to allow the authority of what that authority perceives as a case of deficit stamp duty and it does not assume the character of sanctity of a statutory procedure.

5. Therefore, this Court is constrained to allow this petition and direct the Sub Registrar, Poonamalle to remove the Audit Check Slip from Book-1. It is now open to the authority concerned to take recourse to relevant provisions of Stamp Act, if there is a case for invoking it is available for realising any deficit stamp duty.

6. This petition is allowed in the manner indicated. No costs.

Sd/-
Assistant Registrar (CS-VII)

//True Copy//

Sub Assistant Registrar

Ds

To:

1.The Inspector General of Registration
No.120, Santhome High Road
Santhome, Chennai - 600 028.

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4.The Commissioner
Block Development Officer
Poonamallee
Chennai - 600 056.

+1cc to Mr.A.E.Ravichandran, Advocate, S.R.No. 13600
+1cc to the Government Pleader, S.R.No. 14569

W.P.No.4478 of 2021

PMK(CO)
GN(08/04/2021)